UNITED
NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/52/943
S/1998/463
4 June 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda items 64 and 81
COMPREHENSIVE NUCLEAR-TEST-BAN TREATY
MAINTENANCE OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Fifty-third year

Letter dated 2 June 1998 from the Permanent Representative of the Philippines to the United Nations addressed to the Secretary-General

I have the honour to transmit to you the statement of the Secretary of Foreign Affairs of the Philippines dated 25 May 1998 on the recent nuclear tests conducted by India.

The statement was issued by the Secretary of Foreign Affairs in his position as the current Chairman of the Association of South-East Asian Nations Regional Forum.

I should be grateful if you would have the present statement issued as a document of the General Assembly, under items 64 and 81, and of the Security Council.

(Signed) Felipe MABILANGAN
Ambassador
Permanent Representative

Annex

Statement of the Chairman of the Association of South-East Asian Nations Regional Forum on nuclear tests

The Association of South-East Asian Nations Regional Forum is the only existing government-level entity for the discussion of political and security issues in the Asia-Pacific region. The Association of South-East Asian Nations (ASEAN), consisting of Brunei Darussalam, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam, has been the primary driving force of the ASEAN Regional Forum. The other participants include the 10 dialogue partners of ASEAN (United States of America, Japan, China, Russia, Canada, Australia, New Zealand, Republic of Korea, European Union and India) and Cambodia and Papua New Guinea. The Philippines is the current Chairman of the Regional Forum.

As early as 1995, the ASEAN Regional Forum put emphasis on the importance of non-proliferation of nuclear weapons in promoting regional peace and security. The Forum subsequently welcomed the overwhelming adoption of the Comprehensive Nuclear-Test-Ban Treaty in 1996 as an important step in prohibiting nuclear test explosions. At the same time, the ASEAN Regional Forum stressed its determination to continue to contribute to the prevention of the proliferation of nuclear weapons in all its aspects. It was, therefore, a source of disappointment and grave concern to the Forum that these decisions and statements were completely disregarded through the carrying-out of the five separate nuclear tests recently conducted by India.

We are equally disturbed and acutely concerned over the reported decision of Pakistan to conduct nuclear tests of its own in response to the nuclear explosions undertaken by India. These tests would doubtless trigger a nuclear arms race in South Asia and create instability not only in the subcontinent but also in other parts of the world. Any nuclear tests at this time violate the spirit of the non-proliferation regime and tear at the fabric of inter-State relations. It is also lamentable if such an exercise diverts scarce resources from the imperatives of economic and social developments.

In view of this, we call on the Government of Pakistan to desist from undertaking its planned nuclear tests and appeal to it to exercise maximum restraint.

We call for the total cessation of all nuclear tests and urge those nations that have not done so to sign the Nuclear Non-Proliferation Treaty and the Comprehensive Nuclear-Test-Ban Treaty. The creation of a nuclear-free world is the ideal legacy that we can leave to mankind as we move on to the next millennium.

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SECURITY COUNCIL
Fifty-third year

Letter dated 3 June 1998 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General

I have the honour to transmit to you herewith the text of the statement by the Ministry of Foreign Affairs of the Republic of Belarus, dated 1 June 1998, in connection with the nuclear tests conducted by India and Pakistan in May 1998.

I should be grateful if you would have the present letter together with the annexed statement issued as a document of the General Assembly and the Security Council.

(Signed) Alyaksandr SYCHOU
Ambassador
Permanent Representative

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ANNEX

[Original: Russian]

Statement of 1 June 1998 by the Ministry of Foreign Affairs of Belarus

Belarus received the news of the nuclear tests conducted by India and Pakistan with alarm and concern. The series of nuclear tests that were conducted pushed the world, on the threshold of the twenty-first century, towards the proliferation of nuclear weapons, constitute a new round of the nuclear arms race and create considerable additional difficulties in the way of the further reduction of nuclear weapons. These actions contradict the consistent efforts of the world community to strengthen the nuclear non-proliferation regime at the global and regional levels as an important factor in international stability and security.

Belarus, which a few years ago made the historic choice to renounce the nuclear potential it possessed and is a party to a number of the most important agreements in the field of nuclear disarmament, cannot but feel a special sense of responsibility in this respect and be alarmed by this turn of events.

Belarus calls on all countries that have not acceded to the Treaty on the Non-Proliferation of Nuclear Weapons and possess military nuclear programmes to review their current nuclear policy, accede to that Treaty and the Comprehensive Nuclear-Test-Ban Treaty, and promote the development of treaties to prohibit the production of fissionable materials for nuclear weapons or other nuclear explosive devices, in all of which mankind places its hopes for a nuclear-free world in the twenty-first century.

The events of recent days have heightened our alarm at the possibility of a chain reaction of nuclear proliferation not only in the south Asia region, but also beyond its limits. The absence of legal obligations on the international community creates fertile soil for such a development. As is known, on the basis of its consistent anti-nuclear policy and of the threats to the fate of future generations, of the European continent and of the world as a whole, Belarus has called and calls on all countries, in the light of present-day realities, to support the idea of establishing a nuclear-weapon-free area in central and eastern Europe. Belarus is convinced that the implementation of this idea will strengthen security and confidence in Europe, contribute to the geographical non-proliferation of nuclear weapons and constitute an important step towards the further strengthening of peace and stability in Europe and throughout the world.

We believe that all non-nuclear-weapon States could assume agreed responsibilities to renounce once and for all the deployment of nuclear weapons in their territory. Belarus calls on the nuclear Powers to assume obligations not under any circumstances to deploy nuclear weapons in the territory of non-nuclear-weapon States.

UNITED
NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/52/945
S/1998/472
5 June 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda items 64 and 81
COMPREHENSIVE NUCLEAR-TEST-BAN TREATY
MAINTENANCE OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Fifty-third year

Identical letters dated 5 June 1998 from the representatives of Argentina, Australia, Canada, Chile, Kazakhstan, New Zealand, the Republic of Korea and Ukraine to the United Nations addressed to the President of the General Assembly and the President of the Security Council

Our respective Governments have already expressed their grave concerns about the testing of nuclear devices by India and Pakistan, considering that those events could have most dangerous consequences for regional stability, international peace and security and the international nuclear non-proliferation regime.

Our countries note the initial reaction on the part of the United Nations in reply to those developments. We maintain the strong view that its relevant organs should remain seized of the matter in order to examine comprehensively and further explore proactive responses to the situation created by the recent nuclear tests in South Asia and their implications for nuclear non-proliferation and nuclear disarmament.

Bearing in mind the primary responsibility of the Security Council for the maintenance of international peace and security, we believe that the convening of a formal meeting of this organ to consider all aspects of this situation at which Member States non-members of the Security Council could participate, would be an appropriate next step. Such a meeting could usefully accompany the adoption of any Security Council resolution on this issue.

Our countries would like to take this opportunity to reiterate their commitment contained in the decision on principles and objectives for nuclear non-proliferation and disarmament adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

We should be grateful if you would have the present letter issued as a document of the General Assembly, under items 64 and 81, and of the Security Council.

(Signed) Fernando PETRELLA
Permanent Representative of Argentina
to the United Nations

(Signed) Penelope WENSLEY
Permanent Representative of Australia
to the United Nations

(Signed) Robert FOWLER
Permanent Representative of Canada
to the United Nations

(Signed) Juan LARRAÍN
Chargé d'affaires a.i. of Chile
to the United Nations

(Signed) Yerzhan KAZYKHANOV
Chargé d'affaires a.i. of the Republic
of Kazakhstan to the United Nations

(Signed) Michael POWLES
Permanent Representative of
New Zealand to the United Nations

(Signed) See-Young LEE
Permanent Representative of the
Republic of Korea to the United Nations

(Signed) V. YEL'CHENKO
Permanent Representative of
Ukraine to the United Nations

United Nations A/52/946

General Assembly

Distr.: General
15 June 1998
English
Original: Spanish

Fifty-second session
Agenda item 45

The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala

Note by the Secretary-General

1. The attached document contains the report of the Human Rights Area of the United Nations Verification Mission in Guatemala (MINUGUA) on the verification of compliance with the commitments of the Comprehensive Agreement on Human Rights. In accordance with the practice established since the Mission's inception, I shall convey a copy of this report to the United Nations High Commissioner for Human Rights, with the request that it be transmitted to the members of the United Nations Commission on Human Rights.

2. This report, which is being transmitted by the head of the Mission, is the eighth on the subject, and covers the period from 1 July 1997 to 31 March 1998, during which the Mission continued to carry out its work and verify compliance with the commitments of the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements. The results of the verification of compliance with the Agreement were reported to the General Assembly on 4 February 1998 (A/52/757).

3. I wish to reiterate my thanks to the Government of Guatemala and to the Unidad Revolucionaria Nacional Guatemalteca (URNG) for their cooperation with the Mission, without which it would have been unable to function. I also wish to express my gratitude for the ongoing collaboration and support provided by the members of the United Nations system in Guatemala, represented by the Resident Coordinator of Operational Activities for Development of the United Nations System.

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Annex

Eighth report on human rights of the United Nations Verification Mission in Guatemala

I. Introduction

1. During the period covered by this report (1 July 1997 to 31 March 1998), the United Nations Verification Mission in Guatemala (MINUGUA) continued to verify compliance with all the Peace Agreements signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG). Among the Agreements, the Mission verifies compliance with the Comprehensive Agreement on Human Rights (hereinafter referred to as the "Comprehensive Agreement"), signed on 29 March 1994 (A/48/928-S/1994/448, annex I) and with the human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples (hereinafter referred to as the "Agreement on Indigenous Rights"), signed on 31 March 1995 (A/49/882-S/1995/256, annex).

2. In view of the particular importance of the enjoyment of the human rights accorded priority that were included in the Comprehensive Agreement, as one of the main aspects of the frame of reference for evaluating progress made in the overall peace process, the Mission is continuing to issue a specific report on the subject. This report also refers to the commitments under the Comprehensive Agreement which were not included in the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements (A/51/796-S/1997/114, annex I), as noted in the second report of the Secretary-General on the results of the verification of compliance with that Agreement (A/52/757, para. 5).

II. Context in which the Mission carries out its activities

3. During the period under review, the first anniversary of the signing of the Agreement on a Firm and Lasting Peace (A/51/796-S/1997/114, annex II) took place. People from the most diverse sectors of society, representing civil society, the State and the numerous commissions set up under the Peace Agreements, noted the progress made that year, particularly the strengthening of political freedom and the emergence of a culture of dialogue and negotiation. At the same time, the assessment of the first year underscored the need to reschedule major commitments which had not yet been carried out, disseminate more broadly the content of the Peace Agreements and overcome the serious public-security situation and the persistent economic and social difficulties in order to enable the entire population to enjoy the benefits of peace.

4. The changes in the human rights situation in Guatemala have two characteristics. On the one hand, there is a continuing gradual decline in the number of violations of the rights accorded priority under the Comprehensive Agreement, which has been influenced by the end of the armed confrontation and the demobilization of some of its principal participants, such as the Voluntary Civil Defence Committees, military commissioners and URNG. In addition, the violations recorded in the most recent periods, in spite of the grave nature of some of them, are not generally characterized as being politically motivated or in response to government instructions to commit and conceal them.

5. On the other hand, the changes have also been characterized by a continuing high level of criminal violence and a feeling of insecurity on the part of citizens to the extent that, at the current time, the basic problem of protecting human rights has focused on ensuring fulfilment of the State's duty to guarantee these rights and to investigate and punish those who violate them. The social phenomena, excesses and structural shortcomings of the institutions involved in the administration of justice and of the police that seriously affect the enjoyment of basic human rights by the population are part of this situation. The challenge facing the State is to carry out these duties in an effective manner ensuring respect for human rights within the framework of a constitutional system.

6. The phenomenon of crime has evoked a profound feeling of revulsion and indignation on the part of society as a whole, which the Mission fully shares. The State's limitations and shortcomings in dealing with crime and providing security have caused impatience and frustration in society, which feels that it is defenceless. This situation has increased tolerance for various forms of what is called "taking justice into one's own hands", actions carried out outside the law, such as lynchings and "social cleansing" operations.

7. There is no doubt that the State institutions are essential for combating crime and, for that reason, the Peace Agreements accord priority to strengthening their capacity to prevent, investigate and punish crime. Nevertheless, the fact that the State still does not have that capacity, since strengthening it is a gradual process to be carried out in the medium term, cannot justify the use of illegal practices. Many believe that any method is permitted in combating crime. In this regard, the Mission reiterates that it is unacceptable and harmful to combat unlawfulness by means that are also unlawful and that, moreover, breaking the law is unnecessary. In fact, observance of the law is essential for ensuring the legitimate use of law enforcement personnel; and strict respect for the law leads to greater effectiveness in combating crime, since this alone guarantees due process and makes it possible to prove culpability and punish those responsible. There is no contradiction between the legitimacy of action by the State and its effectiveness in combating crime. This report analyses the progress made and setbacks experienced by State institutions with regard to the commitment to combat impunity with strict adherence to the law.

8. In order to deal with the lack of security and owing to the shortcomings of the National Police and the limitations of the recently formed National Civil Police, the Government instructed the army to support the police in this task. This has led to the participation of military personnel in joint patrols, whose real impact is difficult to assess. The crime statistics would indicate that they have not achieved the desired effect and that, moreover, in their activities they have not refrained from committing violations (see para. 40). In the past, we had reported on activities by specialized squads which the army participated in or led. During the period under review, cases of enforced disappearances in operations having these characteristics (see para. 34 ff.) have been reported.

9. Instances of irregularities with respect to crime are not limited to the State. The Mission has noted the existence and growth of two phenomena which, viewed as a reaction to the inability of the State to provide security and punish crime, coincide with the objective of killing alleged criminals. This involves on the one hand, the phenomenon of lynchings (see para. 21 ff.) and, on the other, the murder of alleged criminals within the framework of the so-called "social cleansing" activities (see para. 84 ff.). Both situations, together with the emergence of illegal security bodies and irregular armed groups (see para. 81 ff.), represent an additional challenge for the State as well as society as a whole, which must also combat these acts, which are as violent and unlawful as those that they are intended to eliminate.

10. Lastly, while this report was being written, but not during the period under review, the Most Reverend Juan José Gerardi, Auxiliary Bishop of the Diocese of Guatemala and Coordinator of the Archdiocese Human Rights Office, was murdered. His death, two days after the submission by the Office of the report on the results of the "Project for the Recovery of Historical Memory", which provides an account of the human rights violations that occurred during the 36 years of the internal armed conflict, had a profoundly disturbing effect at both the national and the international level.

11. The Mission has been monitoring the activities of the bodies responsible for investigating this abhorrent crime since the night on which it was committed. On that basis, it urged the competent authorities to redouble their efforts to overcome the traditional shortcomings of the judicial investigation system, provide the responsible bodies with all the human and material resources required for carrying out their duties and give the investigation service all the information that might be useful in order to promote confidence in the possibility of halting impunity.

III. Verification of respect for human rights and of compliance with other commitments made in the Comprehensive Agreement

12. The mandate given by the parties under the Comprehensive Agreement authorized the Mission to receive, consider and follow up complaints regarding possible human rights violations and to collect the necessary information and interview any person or group of persons freely and privately. The parties also made MINUGUA responsible for establishing whether the competent national institutions were carrying out the necessary investigations autonomously, effectively and in accordance with the Political Constitution and international human rights norms.

13. Lastly, they gave MINUGUA the function of determining whether or not a violation of human rights had occurred on the basis of whatever information it might obtain in the exercise of its powers. While the statistics contained in the appendix are a quantitative reference in considering the human rights situation, the conclusions set forth in these reports are based not only on them, but also on a qualitative analysis of the situation.

Commitment I. General commitment to human rights

Analysis of verification of the rights accorded priority under the Comprehensive Agreement

14. During the period covered by this report (1 July 1997-31 March 1998), the Mission admitted for verification 219 complaints. Since a complaint may include one or more violations, the total number of complaints admitted involved 1,842 alleged violations of the rights accorded priority. The figures on violations verified during the period under review include complaints admitted during previous periods.

15. An analysis of the complaints admitted indicates a decline in alleged violations of the right to individual liberty, due process and freedom of association and assembly. On the other hand, there was an increase in complaints concerning the right to life, integrity and security of person and freedom of movement and residence.

16. The complaints verified during the period under review refer both to events resulting from actions carried out directly by State agents in the exercise of their functions and to situations which indicate that the State failed in its duty to provide guarantees (see A/52/330, para. 12). This duty is not discharged when institutions fail to comply with the legal obligation to provide, in a timely manner, means of guaranteeing the full exercise of human rights or of carrying out speedy, exhaustive and effective investigations when such rights have already been affected.

Right to life

17. During the period under review, 110 alleged violations of the right to life were recorded and 109 proved to be founded (28 extrajudicial executions, 42 attempted executions and 39 death threats). In the verified cases where there was direct government involvement, National Police officers, members of the army and municipal authorities are most often the ones claimed to be responsible. The Mission considers it a matter of special concern that there was a rise in alleged violations of the right to life during the period.

18. There were instances where extrajudicial executions were the result of ill-treatment of detainees, as happened in the case of César Augusto Morales López, arrested for the commission of an offence and taken to the Chiquimulilla jail, where four National Police officers beat him to death. At other times, death resulted from an excessive use of force, as in the case of Miguel Domingo Xol, who was killed, according to eyewitnesses, by a shot fired from the area where security officers were stationed, on 4 September 1997 in Sayaxché, Petén, as he fled the scene carrying a club. The killing occurred during a clash between the Police Special Forces, the Treasury Guard and a group of peasants, following their eviction from the El Cedral and El Santoespíritu farms. On other occasions, deaths resulted from the Government's failure to supervise its agents. Such was the case of José Luis Ruiz Risso, shot to death by a drunken off-duty National Civil Police officer, identified as Byron Geovanni Hernández Nájera, who was carrying his service revolver at the time. Hernández was arrested by National Civil Police officers and taken to the local police substation, but he managed to escape. The authorities, it should be noted, reacted properly, because once it had been ascertained that the agents holding him in custody had done nothing to secure his detention, they were discharged. Hernández, charged with homicide, is a fugitive, and he too has been discharged from the National Civil Police.

19. Especially disquieting are the deaths in the wake of farm evictions. They can be attributed to a 1996 legal provision making squatting a criminal offence and mandating the security forces to carry out court orders for eviction without determining whether the persons claiming to be the owners actually have legal ownership; in very many instances, this provokes clashes between peasants and government agents. The Mission believes that using conflict-resolution techniques could be one solution to these confrontations, which often result in death or injury among members of the security forces or among those being evicted.

20. During the period under review, the Mission registered several violations of the right to life of individuals singled out as being criminals or homosexuals, as part of a pattern of "social cleansing". The Mission verified, in some cases, that planned, coordinated activities had actually been behind the extrajudicial execution of such persons (see paras. 84 ff.).

21. Another particularly serious matter is the occurrence of lynchings. These are grave and violent actions that frequently end in the cruel death of persons reported or mistakenly taken to be criminals, with no proof of their guilt and no opportunity for due process of law. This practice, a serious infringement of, among others, the fundamental right to life, has taken on particular importance because it is becoming more widespread and becoming accepted by a significant segment of the population, who consider it an understandable reaction in view of the inadequacy of the State bodies responsible for maintaining order and judging and punishing criminals. This is one more challenge for the Government, which also has the duty to protect the

fundamental rights of lynching victims and not to let the instigators and perpetrators enjoy impunity.

22. The Mission classified the available data on 120 lynchings that had taken place in the last two years (27 March 1996 to 1 April 1998), in the course of which some 100 persons were murdered and another 100 injured. Such occurrences, previously fairly isolated, have become markedly more frequent, to the point that there are now one or two lynchings a week. The data indicate that the phenomenon is basically a rural one (85.7 per cent), the usual motive being an alleged crime against property (67 per cent) that normally involves goods of very little value. On a few occasions, the lynchings have been a response to crimes against life (7.5 per cent) or sexual crimes (4.2 per cent). In most cases, no investigation whatever was conducted; in 24 cases the Public Prosecutor's Office undertook inconclusive investigations; and only two cases have been scheduled for trial.

23. As regards the instigators, it is difficult in most instances to uncover solid evidence to prove who was responsible. However, verification by the Mission shows that most of the lynchings occurred in places where the Voluntary Civil Defence Committees were very active and in control in the community and that several times former members of those Committees were identified as the instigators. It has been brought out that municipal authorities were also involved in some of these cases.

24. The rise in the number of lynchings has prejudiced the social and institutional view of indigenous customary law, because such acts have been cited as examples of traditional indigenous justice, an unfounded attribution that is emphatically denied by indigenous organizations and representatives.

25. With regard to the enforcement of the death penalty, various efforts to encourage its abolition have been and are being carried out under the auspices of the United Nations. For instances, the Second Optional Protocol of the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, was opened for signature, ratification and accession and is now in force, although Guatemala is not yet a party to it. Also, the United Nations Commission on Human Rights has called on States which have not yet abolished capital punishment to consider suspending executions with a view to the eventual abolition of the penalty. The worldwide trend towards abolition of the death penalty does not seek to create a tolerance for crime. It is prompted by the inhumanity of the penalty and the statistical proof that its application has not succeeded in reducing the frequency or seriousness of crimes.

26. Accordingly, the Mission reiterates that, under Guatemalan law and, in particular, the Constitution of the Republic: (a) it is illegal to impose capital punishment for crimes which were not punishable by the death penalty before the entry into force of the American Convention on Human Rights; (b) the authorities, especially the courts, have the weighty responsibility of condemning a person to death only after a trial in which all the guarantees of due process have been strictly observed; (c) given the recognized technical shortcomings of the penal system, there is a real danger of committing irreversible judicial errors and executing innocent persons, and in that connection, there is a constitutional prohibition (article 18) against imposing the death penalty on the basis of "circumstantial evidence"; and (d) under article 18 of the Constitution, a death sentence cannot be executed until "all appeals" have been exhausted; this article does not distinguish between domestic judicial remedies and international judicial remedies.

27. Prosecutors, judges, lawyers and human rights workers are still subject to death threats. During the period under review, there were threats against, among others, the prosecutor in the "Patrol 603" case. In addition, the judge of the trial court of Coban, in charge of the Xamán case, was harassed. Threats were also made against the forensic anthropologists of the Forensic Anthropology Institute of Guatemala involved in the exhumations in Panzós, Alta Verapaz, and against the attorney from the Rigoberta Menchú Foundation who was joint plaintiff in the Xamán case (see paras. 66 and 90 ff.).

Right to integrity and security of person

28. In connection with the right to integrity of person, 47 complaints covering 1,254 alleged violations were admitted and 954 of them were verified, most of them (858) on the grounds of excessive use of force; in addition, the following violations were confirmed: 7 cases of torture, 21 cases of cruel, inhuman or degrading treatment or punishment, 47 cases of ill-treatment and 21 cases of threats other than death threats. Most of the complaints were in connection with two instances of evictions from farms, in Sayaxché, Petén, in September 1997 and in Naranjo, Petén, in November 1997. In the latter incident, the Police Special Forces used a disproportionate number of tear-gas canisters and smoke bombs in an operation that indiscriminately affected houses and shops in the vicinity of a demonstration. Several people were hit directly by the tear-gas canisters, children were sickened by tear gas and other persons were roughed up by the police.

29. Torture is all the more grave when its victims are minors. In the case described here, although according to the investigation report the youth in question did not suffer serious physical injury, his age made him more vulnerable both physically and psychologically and he was entitled to special protection by the State. Domingo Gamalies Sales Bautista, age 16, was arrested by three auxiliary mayors on 15 September 1997 in a bar in the hamlet of 7 de Febrero, San Marcos, for not having paid the 50 centavos he owed. After being taken to the town hall, his hands and feet were tied and he was beaten. Later, he was blindfolded, beaten and burnt with cigarettes to force him to reveal the names of persons in his circle of friends and companions who were suspected of wrongdoing.

30. Verification has shown that cruel, inhuman or degrading treatment or punishment is not today a systematic practice of the National Police. However, cases continue to come to light like that of Luis Gustavo Gómez Castellano, who was arrested with excessive force by four National Police officers in Zacapa when he was in a drunken state on the night of 18 July 1997. His wife, Glenda Janeth Aguirre, was also beaten as she tried to get into the car in which her husband was being taken to the local Second Corps precinct of the National Police. The Mission considers it especially serious that, perhaps in reprisal for the visit made by MINUGUA observers to Second Corps precinct to verify the alleged incident, the detainee was beaten by one of his captors and sustained a serious injury to his mouth.

Right to individual liberty

31. During the period covered by the report, 83 alleged violations of the right to individual liberty were recorded and 78 were confirmed. Of the confirmed cases, 34 were arbitrary detentions, 41 were detentions in violation of legal guarantees, 2 were enforced disappearances and 1 was a kidnapping.

32. Three aspects of the right to individual liberty stand out during the period under review: first, that in some departments, like Escuintla, Alta Verapaz and Petén, detentions in violation of legal guarantees are a widespread, recurrent practice; second, that although violations are occurring less frequently, the perpetrators still seem to be mainly National Police officers and auxiliary mayors; lastly, that normally this kind of deprivation of liberty goes hand in hand with ill-treatment or cruel, inhuman or degrading treatment or punishment, including torture. A case in point is that of Ramiro Gabriel Coronado and Margarito Pérez Gabriel, who were arrested on 29 September as they walked through the town of El Duraznal, San Marcos, even though they had done nothing illegal and no arrest warrant was served. After being taken to the auxiliary mayor's office by a group of persons led by the auxiliary mayor himself, they were hung by the legs and doused with gasoline under threat of being set afire if they did not confess to having committed various robberies.

33. Another cause for concern in the period under review is the occurrence of harassment and threats against demobilized members of URNG. On 3 February 1998, Alexander Arturo Cuéllar Ortega, a university student who had been demobilized from URNG, was arbitrarily detained, threatened and beaten by two officers of the Second Corps of the National Police while he was travelling in a bus from Zone 1 of the capital to the University of San Carlos. Thanks to a rapid investigation by the Office of Professional Accountability of the National Police, the officers responsible were quickly discharged and the Public Prosecutor's Office was notified so that appropriate legal action could proceed.

34. During the period under review, four claims of enforced disappearance were admitted. In two of the cases it was confirmed that there had been a violation and in the other two, even though they are still in the process of being verified, the Mission has sufficient evidence to impute responsibility to government agents. The resurgence of this exceptionally grave human rights violation is a very serious and disquieting development, even where no political motivation is involved.

35. On 11 September, around 8.30 p.m., three individuals fleeing in a car from a group of persons unknown to them reached Zone 13 in Guatemala City and entered the home of one of them, Ricardo II Figueroa Delgado. The operation mounted by their pursuers included about 15 persons dressed in civilian clothes and wearing ski masks, heavily armed with pistols and submachine guns and equipped with communications devices. Figueroa was arrested and taken away in an unmarked vehicle. Eyewitnesses corroborated these facts. The other two persons apparently managed to escape. To date, the man arrested is still considered a disappeared person and his arrest has not been acknowledged by the police or any other security body. The three were alleged to have been involved in the kidnapping of a Danish pharmaceutical company executive, Christian Erichsen.

36. Figueroa's mother brought the case before the Office of the Counsel for Human Rights, which submitted two applications for the remedy of habeas corpus to no avail. On 2 October, a third remedy was applied for, requesting that he be sought in the military intelligence premises, again without producing results. During the course of its

verification, MINUGUA was denied entry into one of the military premises, in clear non-compliance with the Comprehensive Agreement.

37. The second case occurred a few hours after the arrest of Figueroa, in an operation carried out in Zone 12 of Guatemala City by 25 anti-kidnapping agents and 35 members of the Police Special Forces, at the behest of the head of the anti-kidnapping squad of the criminal investigation service of the National Police. During this operation, the Danish businessman referred to earlier was freed. The National Police maintains that it received an anonymous telephone call to its emergency number at 7.10 p.m. on 11 September, telling them where the kidnapping victim was being held. On the basis of that information they undertook a surveillance operation.

38. Around 10 p.m., Isaac Valdés Mayén drove away from the building in his car, was shot at and intercepted by the security officers, and was then forced into their car. The scene was observed by a witness who reported it as a kidnapping to the same National Police emergency telephone number. The arrest has not been acknowledged by the National Police or any other security body. Valdés Mayén too is still considered a disappeared person.

39. In the case of the enforced disappearance of Juan José Cabrera Rodas (A/52/330, paras. 28 ff.), the investigation carried out by the Public Prosecutor's Office has produced no results so far. Although the authorities made statements to the prosecutor, and the Ministry of the Interior gave him the names of the agents who had participated in the operation in which Rafael Baldizón had been arrested, none of those authorities took steps to summon the agents for a hearing. Furthermore, the Public Prosecutor's Office did not use its full powers of investigation and has been ineffective in making headway in clearing up the case.

40. The Mission ascertained that, as part of the Government's effort to combat crime, the army continued to perform public security functions, particularly by participating in combined patrols with National Police officers. Although this kind of activity is legal under Government Decree No. 90-96, there have been verified cases in which the actions of military personnel have gone beyond what the law allows. Cases in point are those of Ramiro Vásquez Benítez in the town of El Astillero, Guazacapán, Santa Rosa and other illegal arrests in Sololá, Escuintla and Zacapa.

Right to due process of law

41. During the period under review, 90 complaints related to this right were admitted, containing 191 alleged violations; 451 were confirmed. As in previous reports, the majority of violations confirmed (392) referred to the legal duty of the State to prevent, investigate and punish.

42. The Mission reiterates what it stated in previous reports concerning violations of this legal right through omission and delay on the part of officials of the Public Prosecutor's Office in the investigation of crimes, the typical slowness of court procedures and the lack of coordination among the various components of the justice system in carrying out arrests, raids, searches and other urgent operations.

43. Verification reveals that in a considerable percentage of cases, the right to defence is not guaranteed, an especially serious failing in those where capital punishment is being sought for the defendant. In those cases there is a formal defence, which cannot be considered as meeting the requirements of article 14 of the International Covenant on Civil and Political Rights. In the case of Pedro Rax Cucul, for example, who was condemned to death by the trial court of Cobán on 25 June 1997, the public defender did not present any evidence in the defendant's behalf throughout the entire trial. Moreover, even though the psychiatric expert had stated that a more thorough examination was required because "it could not be established whether, at the time the act was committed, the individual was suffering from a mental illness ...", that examination was never conducted and it was impossible to know whether, as the accused asserted, he had acted under emotional duress.

44. In the case of the murder of Myrna Mack, the Mission has noted positive developments in the criminal proceedings. On 12 August 1997, the Constitutional Court received a petition from the remedy of amparo against a resolution of the Supreme Court of Justice that established the competence of the criminal court of first instance to hear the case and determined that the trial should be governed by the derogated criminal procedure law. In granting amparo, the Court decided that the body of law applicable was the new Code of Criminal Procedure and clarified that the proceedings carried out by the Public Prosecutor's Office and the military judge, far from being rescinded, maintained their validity and would serve as the basis for the investigation of the facts.

45. In this same case, the Supreme Court decision of 22 October 1997, which rejected an appeal lodged by the accused members of the military attempting to invoke the National Reconciliation Act, represented a milestone in the effort to combat impunity and endorsed the application of a restrictive judicial interpretation.

46. One of the guarantees of due process is the right to be assisted by an interpreter if a defendant does not understand or speak the language of the court, a right which has special importance in a multilingual country like Guatemala. In that regard, the Mission has once again noted the absence of translators in the courts, which has seriously hampered the right to defence in trials of indigenous persons.

47. The traditional laws of indigenous peoples are an essential element in regulating society in their communities. Derived from a specific philosophy, they possess an authority system and provide for their own procedures. Indigenous peoples have the right to exercise these procedures, within the limits established in article 8 of International Labour Organization Convention 169, "where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights".

48. The Agreement on Indigenous Rights, Convention No. 169 and article 58 of the Constitution are the foundations for institutional recognition of the law practised by indigenous peoples. The procedure and mechanisms for this recognition were analysed and discussed in the framework of the peace process, and it is for the Congress to issue the rules for coordination to ensure that indigenous communities are recognized as being entitled to manage their internal affairs in accordance with their customary law. The indigenous peoples must participate in this process. Indigenous law will continue to be an effective tool for conflict resolution, especially when the authorities and procedures are clearly identified.

Right to freedom of expression

49. During the reporting period, the Mission took note of the controversy that arose between the communications media and the public authorities over freedom of expression. While the former asserted that government actions were illegally limiting that right, the Government maintained that it had acted within the law and that, on the contrary, some representatives of the media, by omitting or twisting information, did not respect the citizens' right to information. The Counsel for Human Rights, in a resolution of 10 December 1997, declared that the violation existed and called for "harmony and dialogue among the opposing institutions".

50. On 26 March the Mission accepted a formal complaint by the magazine *Crónica* against the Government for conducting a policy intended to "impede the free expression of views". The alleged policy was carried out by placing pressure on the communications media critical of the official line, including "... visits to advertisers and advertising agencies to request them not to buy advertising space in those publications". According to the complaint, it was a question of undue interference by the political authorities in the private sphere, and although the Government could disseminate through the media such official propaganda as it found appropriate, it was not legally entitled to intervene in the field of private commercial relationships for the purpose of economic harassment of a particular communications medium. That, along with restrictions on free access to official sources of information, would limit freedom of expression and constituted the substance of the complaint received by the Mission, which immediately began the appropriate verification process.

Freedom of association and assembly

51. During the reporting period, 11 complaints involving these rights were admitted, including 183 alleged violations. Verification to date has confirmed 233 violations. Some cases make reference to the right to association of neighbourhood groups which propose the establishment of human rights committees or associations to promote social action in the municipalities. In those cases, actions or omissions by the municipal authorities which have blocked these initiatives have been verified. For example, in the case of the Human Rights Committee of the hamlet of Ceiba Amelia in Escuintla, the local authorities did not know what administrative actions were needed to respond to a petition for municipal endorsement.

52. With regard to freedom of association for trade unions, the Mission has received complaints holding the public authorities responsible, as in the cases of the Tiquisate hospital and the municipality of Zacapa. As for the effective enjoyment of trade union freedoms in Guatemala, the Mission has recently reported that "although the procedures for the authorization of trade unions have been streamlined, the situation with regard to worker organization remains precarious, as the signs of anti-union practices at the time of the first collective actions indicate. This could be one of the reasons for the drop in the number of applications for recognition of trade union organizations" (A/52/757, para. 50).

53. One example is what took place at the Nueva Florencia ranch in Colombia, Quetzaltenango, where 32 workers were fired when they formed a union. In this case, the workers had organized a provisional executive committee and also, seven days before being fired, had submitted to the Labour Inspector's Office a notification that they were forming a trade union. The day they were fired they had sent an

application for legal recognition of the trade union to the Ministry of Labour.

Political rights

54. During the period under review, no reports were received about violations of political rights. The absence or small number of complaints is normal, since attention is focused on these rights mainly during electoral periods, when the right to elect and to be elected is exercised. Nevertheless, the State's obligation is not only to respect the exercise of these rights in an election period, but also to create the necessary conditions for citizens to be able to exercise them, including the issuance of personal documents to the broad sectors of the population who currently lack such documentation, largely as a consequence of the armed conflict. The Mission attaches great importance to the steps taken by the State to remedy this situation.

55. The Mission notes in this regard that the Congress of the Republic has adopted the Temporary Special Act on Personal Documentation of the Population Uprooted by the Internal Armed Conflict, with the aim of providing personal documentation to uprooted populations. This Act, which has been in force since 16 October 1997, requires the Ministry of the Interior to issue rules and instructions for action to be taken by civil registrars. These rules and instructions have not been issued, however, on the grounds that they would impinge on the autonomy of municipalities. As a result, civil registrars are refusing to implement the law and are failing to provide documentation to uprooted populations. For its part, the Ministry of the Interior has failed to make available the lists of municipalities which were destroyed by the violence, a basic requirement for the effective enforcement of the law. Finally, there is need for a special documentation programme to be launched with a view to the upcoming elections, since a large part of the population, especially women, will be unable to exercise their right to vote because they lack personal documentation.

56. Political rights include the right to participate in the management of public affairs, either directly or through representatives. This right has particular relevance for the indigenous peoples, who have been traditionally marginalized from political decision-making. The Mission therefore welcomes as a major step forward the ratification by Guatemala of International Labour Organization Convention 169, article 6 of which states that: "In applying the provisions of this Convention, governments shall: (a) consult the people concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly ...". This rule is fully consistent with the Agreement on Indigenous Rights, in which the Government undertook to promote legal and institutional reforms to facilitate, regulate and guarantee the participation at all levels of indigenous people and to involve the representatives of indigenous organizations in planning the reforms.

57. To this end, more effective compliance with this principle must be steadily promoted, a task for which the Joint Commission on Reform and Participation, which was established pursuant to the Agreement on Indigenous Rights, has a major responsibility. This Commission is required to propose arrangements for consulting indigenous peoples whenever legislative and administrative measures that are likely to affect them are to be considered.

Commitment to promote rules and mechanisms for the protection of human rights

58. With regard to the commitment undertaken by the Government to promote rules and mechanisms for the protection of human rights, the Congress of the Republic of Guatemala, in its Legislative Decree No. 78-96, adopted in September 1996 the "Code on Children and Youth". The Code was due to enter into force on 27 September 1997, but the Supreme Court of Justice requested the Congress to extend the deadline for its implementation on the grounds that adequate budgetary resources were not available to establish the corresponding courts. Consequently, Legislative Decree No. 84-97 of 25 September 1997 deferred the entry into force of the Code to 27 March 1998. Finally, the Mission notes with concern the further delay provided for in Legislative Decree No. 23-98, which once again postpones the entry into force of the Code.

59. Not much progress has been made either with regard to the enactment of legislation to govern adoption, despite the importance of this issue to Guatemalan society and in the light of the complaint by Casa Alianza, a non-governmental organization, about the existence of a network that traffics in children. During the period under review, the draft legislation on adoption, which is presently in the Congressional Commission on Women, Minors and the Family, was sent to various institutions concerned with the issue of children and to national and foreign experts for their comments.

60. On 25 November, on the occasion of the International Day against Violence against Women, numerous forums were organized on the subject, both in the capital and in other departments of Guatemala. Concern was expressed in

these forums over the limited awareness of and failure to effectively implement the Act on the Prevention, Punishment and Eradication of Domestic Violence, which has been in force since 24 November 1996.

Commitment II: Commitment to strengthening institutions for the protection of human rights

61. In the Comprehensive Agreement, the Government committed itself to respect the autonomy and protect the freedom of action of the judiciary and the Public Prosecutor's Office, based on the belief that support for these institutions strengthens the rule of law. It also undertook to support the human rights functions assigned to the Office of the Counsel for Human Rights.

62. During the period in question, the Mission has noted some progress towards fulfilling the commitments to strengthen these institutions, which were undertaken in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (A/51/410-S/1996/853, annex), the timetable for which is set out in the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements. Of particular note in the judicial branch is the work of its modernization commission, whose aim is to bring about substantial improvements in the administration of justice by implementing a large number of reforms in 1998. The Public Prosecutor's Office completed the elaboration of the internal restructuring plan to improve the technical and administrative capacity of the institution. These innovations are intended to improve the efficiency of the investigation of criminal acts, to facilitate their prosecution through the courts and to improve access to the justice system. As regards the commitment to support the work of the Office of the Counsel for Human Rights, the main concern has to do with the limitations on its sustainability and the broadening of the scope of its activities, owing to the inadequate budgetary allocation for 1998 (A/52/757, para. 6).

63. With regard to the commitment to protect the autonomy and freedom of action of the institutions responsible for the protection of human rights, it should be pointed out that, during the period under review, the army's general attitude was one of a lack of cooperation in efforts to clarify the involvement of its senior officers in human rights violations. Because of this attitude, the official investigations have stopped at the responsibility of the actual perpetrators, who are often junior officers, and there appear to have been no judicial decisions that determined who the instigators were.

64. It has also been noted that the relationship between some State organs and their members or former members involved in violations of human rights is not confined to providing them with attorneys for their defence, including cases involving self-defence. In certain cases, actions or omissions have been observed which may adversely affect the independence and impartiality of the courts and impede the investigations, a practice whose net effect is to provide institutional cover for the act.

65. In this connection, mention should be made of the heavy presence of officials of the armed forces during the oral proceedings in the case of Sas Rompiche (A/52/330, para. 58). During the public hearing, which was held on 2 February 1998, a large group of members of the Presidential General Staff was present in the room where the hearing was being conducted by the trial court. The Mission noted that the above-mentioned officials filmed and took photographs of those present, posing in some cases as journalists from the government programme *Noticiero Avances*.

66. The Mission also notes with concern that both the President of the trial court of Cobán, by whom the Xamán case is being tried, and the attorney of the Rigoberta Menchú Foundation, a joint complainant in the same case, were victims of harassment and threats during the period prior to the start of the oral proceedings in the case. According to National Civil Police (PNC) reports, some 20 judges have complained of acts of intimidation against them and therefore receive some form of protection or police guard, which may be a bodyguard or a guard on location.

67. This commitment refers to the full enjoyment of the guarantees and resources required by the judiciary and the Public Prosecutor's Office to enable them to discharge their duties efficiently, a guarantee which covers all persons involved in the conduct of judicial proceedings. Special attention should be paid to the difficult situation of persons who are brought before the courts as witnesses, since the justice system has neither the financial resources nor the necessary infrastructure to protect their right to integrity and security of person. Indeed, the Act for the Protection of Persons Involved in the Conduct of Judicial Proceedings and Persons Linked to the Administration of Criminal Justice, which was adopted in August 1996, did not lead to any real progress in this area, owing to the fact that a prescriptive rule cannot be issued until such time as funds become available to enforce it. To date, only a few isolated initiatives have been taken, which do not constitute a comprehensive solution to the problem. In this connection, the public was

shocked to learn of the murder last October of Edgar Motta González, who had testified as a witness for the prosecution in the "Patrol 603" case. The Mission has noted that, following this incident, potential witnesses have refused to appear in trials for human rights violations.

Commitment III. Commitment against impunity

68. The Mission has continued to focus on the performance of the State bodies and authorities whose functions are connected with meeting this commitment. As in the previous period, the explanation for most verified violations is basically the persistence of serious structural shortcomings in the criminal investigation system and in the administration of justice (A/52/330, para. 55). Therefore, the responsibility for most of the verified violations can be attributed to National Police officers, officials of the Public Prosecutor's Office and the judiciary.

69. Although strictly speaking it is the executive branch of the Government that is responsible for taking action against impunity under the Comprehensive Agreement, the commitment is a legal obligation and a social demand that concerns the State as a whole. Investigating crimes and violations and trying and punishing those responsible is a process which, if it is to succeed, requires all the institutions with jurisdiction in that area – the police, the Public Prosecutor's Office and the judiciary – to do their jobs effectively and in a timely manner. By its very nature, impunity can be combated effectively only by means of a comprehensive programme that is coordinated between these institutions and has resolute backing from the executive branch.

70. With a view to moving forward in these areas, a Coordinating Authority for the Modernization of the Justice Sector, composed of the Ministry of the Interior, the Public Prosecutor's Office and the judiciary, has been set up and provided with an executive secretariat.

71. In this context, it has been established that serious limitations persist in meeting this commitment. Most of the judicial proceedings investigating human rights violations or serious crimes that have been followed up by the Mission are still at almost the same procedural stage as reported in the previous report, with a few notable exceptions such as the progress made in the cases of Mack (see para. 44) and Alioto López. As a result of the extremely slow proceedings and the lack of impetus, there have been no advances in the trials of the most serious and representative cases, such as those of Carpio, González Dubón, Noriega, Saquic and Xamán (A/52/330, para. 58).

72. The slowness and disarray of the proceedings project the image of a justice system that is incapable of making progress in clearing up crimes and violations, thereby fomenting a social perception of impunity. One of the decisive factors behind this slowness is the widespread practice among lawyers of using all possible legal remedies to stall and delay. This situation, which is an abuse of law and dilutes the purpose of those remedies, generates paralysis in trials and overloads the courts, which find themselves forced to spend much of their scarce time in settling groundless appeals. The best example of this are applications for amparo against legal decisions: once these applications are lodged, under an entrenched legal practice that nevertheless lacks any legal foundation, they cause trials to be adjourned until the amparo proceeding is settled, months later. That these applications for amparo are merely stalling tactics is reflected in the fact that, according to Constitutional Court statistics for 1996 and 1997, about four out of five amparo applications are dismissed.

73. The Mission has established that this practice has also affected cases concerning serious human rights violations. In the Xamán case, as was indicated in previous reports, the defence kept up a policy of lodging appeals with a view to causing an unwarranted delay in the proceedings: indeed, this has resulted in successive postponements of the beginning of the oral argument, with it now being two and a half years after the fact. In November 1997, the defence yet again lodged an appeal with the trial court of Cobán, alleging loss of part of the case file, despite the question's having previously been resolved by the lower court of Cobán at a hearing with all parties present. The appeal forced the holding of an additional hearing before the trial court of Cobán, at which it was confirmed that the case file was complete. This delaying tactic is all the more serious in that it is coming from lawyers hired by a State institution, the army, which is responsible for meeting the commitment.

74. The legal duty of the State to investigate, punish and prevent human rights violations is not restricted to the area of criminal law, but includes the administrative area also. In this context, verification has shown that over and above the shortcomings in the criminal law area, when it comes to investigation the authorities frequently fail to issue the indictments that would establish the administrative accountability that applies when any public official is accused of human rights violations. In other cases, when it comes to punishment, the proceedings are left incomplete, so that even though there is an investigation, the legal penalties are either not imposed or are insufficient. Lastly,

the practice of taking preventive measures, such as suspending State employees under investigation for serious violations or crimes from their jobs or from some of their duties, is unheard of.

75. The case of José Obdulio Villanueva, former member of the Presidential staff, is a good example of this situation: although accused in the death of Pedro Haroldo Sas Rompiche, he is still an officer in the army. There have also been cases where the Office of Professional Accountability of the National Police has investigated policemen accused of human rights violations and proved that they were responsible without imposing any punishment whatsoever on them. In other cases which might appear more like crimes, the police forwarded the records to the Public Prosecutor's Office for criminal proceedings to be started without taking the above-mentioned preventive measures, thus basically preventing administrative sanctions from being imposed until the result of the case is known. In the Public Prosecutor's Office, some cases have been proved where officials, even though they were defendants in criminal cases or were under administrative indictment, carried on with their jobs as before. In the judiciary, the case of the former secretary of the magistrate's court in San Ildefonso Ixtahuacán, Huehuetenango, stands out: he has a decision by the Counsel for Human Rights hanging over him which gives an account of his possible criminal liability for crimes committed in the course of his duties, and yet for several months he went on carrying out his tasks as an officer of the judiciary.

76. Verification of the right to due process has shown that in many cases the lack of inter-agency coordination is limiting the scope of criminal trials in the sense that only the actual perpetrators, or the lower levels and street soldiers of organized crime, are found guilty, while the instigators remain unidentified.

77. An example of this is the case of Fernando Miculax Tuctuc, who was sentenced during this period and has various kidnapping cases against him. The case of Beverly Sandoval is also worth mentioning; he has 11 similar cases against him. In none of the above cases has there been any progress in identifying the instigators.

78. That situations like these persist despite the efforts deployed makes it possible for illicit associations with links to kidnapping, drug trafficking and other ordinary crimes to continue in existence; most of these associations could not function without the tolerance or acquiescence of State officials (A/52/330, para. 56). Impunity is also the common denominator in cases of "social cleansing", regardless of whether State employees may have taken part.

79. Within its general mandate of verifying respect for the due process guarantees, the Mission has identified those cases in which there has been a request for the National Reconciliation Act to be applied in order to extinguish criminal liability. It should be pointed out that no accusations have been received that the benefits of the Act are being applied wrongly or too extensively.

Commitment IV. Commitment that there are no illegal security forces and clandestine structures; regulation of the bearing of arms

80. During the period under review, the Mission learned of cases of human rights violations which had taken place in the context of the campaign against organized crime. In these cases, unidentified persons dressed in civilian clothes, whose actions showed a high degree of organization and who were well armed, took part in anti-kidnapping operations during which enforced disappearances took place. This was the case in an incident of 11 September 1997 involving Isaac Valdés Mayén and Ricardo II Figueroa, persons who had been linked to the kidnapping of a Danish businessman (see para. 34 ff.). The same thing happened in the case of three young men, Julio Enrique Albanés Silva, Edy Norberto Beteta Pineda and José Alberto Soto Galicia, who had been identified as members of a band of kidnappers and were arrested on 7 November 1997, after which date they disappeared. In none of these cases have the government authorities acknowledged taking any part whatsoever, nor have the investigations carried out by the competent authorities succeeded in shedding any light on them.

81. As it did in its previous report (A/52/330, paras. 67-68), the Mission regards as serious and disturbing the recurrence of such acts, which show signs characteristic of the activity of security forces employing illegal methods. The verification of these activities indicates that they are carried out with at least the acquiescence or tolerance of government authorities. Such practices have hindered investigation and clarification of the facts and obstructed the determination of responsibility and the prosecution and punishment of all those who may be involved in these reprehensible crimes.

82. During the period under review, the Mission received complaints about the activities of an illegal security body calling itself "Guardians of the Neighbourhood", operating in Zaculeu Central, Zones 8, 9 and 10 of Huehue-Tenango. Verification showed that this group, which consisted of several dozen persons led by a former member of a

Voluntary Civil Defence Committee, assumed the functions of a State body, carried out patrols and assigned itself the role of the "protection of citizens", all this with the professed goal of putting an end to crime. In this context, it was determined that the group carried out illegal detentions and the mistreatment of a number of citizens. Although it has ceased operating since August 1997, it is known that the Ministry of the Interior has been requested to approve its operation. Information has also been received that former civilian patrols are being reorganized, but there has been no indication that these groups are operational.

83. The Mission also received reports concerning the activities of a number of irregular armed groups. In the departments of Sololá, Suchitepéquez and Chimaltenango, at least two groups have announced their existence and activity. One of them, calling itself the "Armed Rebel Movement", issued a communiqué in recent months in which it presented itself as "one of the alternatives for helping to put an end to social injustice in the country", at the same time announcing its decision to "attack all the groups of criminals, bandits and corrupt authorities and officials found at every level". Two other groups were operating in the departments of Quetzaltenango and Retalhuleu. It has not been possible to determine their composition or activities with any certainty, although the Mission has been informed that they have been linked to various attacks and other criminal activities.

84. During the last three months, the Mission verified 10 cases of murder committed in La Libertad, Petén, in which the means employed by those presumed responsible and what was known about the persons killed indicated that these were extrajudicial executions carried out as a part of "social cleansing" operations. The throats of two of the victims were cut, one was decapitated and the others, including a young boy, were shot to death. One of the bodies was found with its hands tied behind its back and a note reading "We are sorry, but this has to be done because it is our job to cleanse communities ...". After the executions, all the bodies were taken to the town of Vista Hermosa, and several of them were thrown in front of the houses of persons who had also been threatened. In fact, the executions began after a first list of "persons condemned to death" was circulated in which the persons listed were accused of being bandits.

85. This illegal group then went on to kill the persons named in the list one after another, frightening others into fleeing the town. Threats were also made against the parents of those listed, telling them not to protect their children if they wished to go on living. The Mission learned that the group travelled in three well-trained and well-armed units of eight, wearing dark clothing, with their faces covered with ski masks. After committing a murder they left a note saying that "they were sorry, but it was necessary to cleanse the town and there were many people still left". These murders terrified the population because of their special cruelty. In one case the victim was killed in the presence of his young son, who was left abandoned next to the body until it was found. In two other cases the victims' throats were cut while they were still alive and their tongues were cut out. These acts traumatized the population.

86. The last incident recorded occurred on 28 March in the neighbourhood of Cooperativa El Arbolito, Petén. A note was found there saying, "Within 24 hours we are going to cleanse the cooperative of marijuana smokers and thieves, especially those of Arbolito. Don't leave – if you do, we will start with you. UTIC."This "social cleansing" group was made up, among others, of two former army officers who had been the heads of Voluntary Civil Defence Committees. As part of the verification of this incident, reports are being checked that the places in which the bodies have appeared are the same as those in which the army has recently stepped up its patrols.

87. In this context, the authorities' reaction has been clearly insufficient, as only the National Civil Police has shown an interest in investigating the situation. Moreover, owing to the fear which it has instilled, the victims' families often do not even demand the bodies. Since the deployment of the National Civil Police in the department of Petén in November 1997, crime rates have fallen in areas where a permanent police presence has been introduced. Conversely, crime rates have risen in areas such as the so-called Bethel Route, La Libertad, which are far from police stations. In addition, the Mission is verifying other similar situations, such as that of four young people who were murdered on 22 September on the highway leading to Ciudad Quetzal, and the case of a known "*marero*" (gang member) who was murdered on 18 June in Melchor de Mencos, Petén, in the presence of at least two witnesses, who were subsequently executed.

88. Article 38 of the Guatemalan Political Constitution recognizes the right to possess and bear arms. Like many of the rights established in the Constitution, this right is not without limits, but is subject to legal and judicial restrictions. For the regulation of this right, article 38 should be interpreted in the light of article 3, which imposes on the State the duty to protect the life, integrity and security of persons, and in the light of statistical studies showing that the proliferation of weapons causes the death or injury of innocent people much more often than it serves its legitimate purpose of defence. This is the basis for the concern

expressed by the parties to the peace process in Commitment IV of the Comprehensive Agreement.

89. In this connection, the Mission found that, during the second half of 1997, the legal and illegal proliferation of firearms in the country continued, with obvious consequences for the Government's public safety policies. Although the authorities responsible for transferring the records of the army's Arms and Munitions Control Department to the Ministry of the Interior have stated that they do not have exact figures on this increase, information reported in the media indicates that both the purchase and sale of firearms and imports of ammunition increased considerably in the final months of the year.

Commitment VII: Commitment to safeguard and protect individuals and entities working for the protection of human rights

90. In its preceding report (A/52/330, para. 74), the Mission indicated that it had noted a decline in the number of complaints concerning this commitment. Nevertheless, during the reporting period there was an increase in complaints of threats and intimidation against individuals and entities working for the protection of human rights in various parts of the country.

91. For example, in Chajul, El Quiché, anonymous pamphlets containing threats against the Asociación Chajulense and Rosolino Biancetti, a parish priest, were circulated in July. In September, María Elena Bustamante, a member of the Alliance against Impunity, heard shots fired near her home and received a visit from two strangers who said that they belonged to the Secretariat of the President's Office.

92. Other examples of this situation are the events surrounding the exhumations carried out in Panzós, Alta Verapaz. On 11 September, the Guatemalan forensic anthropology team reported that a group of unknown persons in a pick-up truck parked across from the hotel where the team was staying in El Estor, Izabal, repeatedly called to the team's photographer, asking him to come and speak with them, but he did not do so. A few days later, the photographer was coerced by a group of strangers into handing over a number of photographs. Both the forensic anthropology team and the members of the Brigadas para la Paz (Peace Brigades) and of the Familiares de Detenidos Desaparecidos de Guatemala (Families of Disappeared Detainees in Guatemala) (FAMDEGUA) witnessed these acts, which they believe were intended to intimidate the anthropologists. A specialist from the FAMDEGUA committee on clandestine cemeteries reported this information to the press on 22 September 1997.

93. Also in September, shots were fired from a moving vehicle across from the cemetery of the city of Panzós, where the exhumation was being carried out, while the families of the victims and members of the Coordinadora de Viudas Maya Achí (Maya Achí Widows' Coordinating Committee) were celebrating a Mayan ceremony.

94. On 22 November, two human rights workers, Felipa Toj Gómez and Manuela Macaria Morales, who belong to the "Runujel Junam" Council of Ethnic Communities (CERJ), reported to the press that they had been forced to leave their home in the municipality of Chinique, El Quiché. According to CERJ, a group of six heavily armed men wearing hoods and olive-green clothing similar to army uniforms threatened to kill the two activists. CERJ believes that this incident is related to the threats which had been made by two members of the community in which the women live, who had accused them of belonging to URNG.

IV. Final observations

95. Today, one of the main factors militating against the enjoyment of human rights in Guatemala is criminal violence. The Mission acknowledges the State's efforts to improve the administration of justice and the deployment of the National Civil Police in various departments of the country, but also notes that serious shortcomings persist with respect to the investigation, prosecution and punishment of offenders. The process of modernizing the justice sector is and will continue to be a long-term undertaking that will require a sustained commitment on the part of the State and society. At the same time, it is important to stress that, slow and frustrating as this process may be, these problems can never justify recourse to illegal methods or to the practice of taking justice into one's own hands. The Mission, which has already commented on the lynchings that have taken place (A/52/330, para. 62), reiterates its belief that this phenomenon, like the cases of "social cleansing" and the possible resurgence of illegal security forces and irregular armed groups, is fundamentally incompatible with the rule of law. These phenomena, which account for some of the criminal violence and which exacerbate the sufferings of the Guatemalan people, should be given priority on the State's security agenda.

96. To prevent an increase in recourse to lynchings and "social cleansing" operations, which are encouraged by the fact that they go unpunished, the Public Prosecutor's Office and the police should coordinate their efforts to prevent such acts and to investigate and prosecute their instigators and perpetrators. Social, political, intellectual and spiritual leaders also have an essential role to play in preventing these phenomena. They should strive to create a culture of non-violence, particularly for the benefit of new generations.

97. The Public Prosecutor's Office and the police should redouble their efforts to combat organized crime, for which purpose it is legitimate to maintain confidentiality where necessary for the effectiveness of their investigations. However, it is imperative that this effort should be carried out within the framework of the law and without tolerance of or participation in illegal or clandestine methods, which give rise to serious human rights violations.

98. In order to win the population's trust and collaboration, the police must eradicate tolerance and inertia with respect to abuses and excesses committed by its agents, through the application of effective measures or sanctions in response to these phenomena. To this end, it is necessary to design and implement a decentralized internal oversight system which is accessible to ordinary citizens and through which complaints can be investigated promptly and preventive and punitive administrative measures can be taken and reported to the complainants, without prejudice to the possibility of prosecuting such agents in the courts and cooperating with related criminal investigations.

99. Likewise, to ensure that the institution is not held responsible for illegal acts committed individually by its members or former members, the army should cooperate actively with the competent State agencies to elucidate such acts and punish their perpetrators, and should issue clear instructions to its members to refrain from committing any act that could affect the independence and impartiality of the courts or obstruct official investigations.

100. With respect to the army's involvement in public safety efforts, the relevant legislation (Government Decree No. 90-96) should be made more precise so as to establish clearly the transitory nature of such involvement and to reaffirm that the civilian authorities, headed by the Minister of the Interior and the departmental governors, are in charge of such matters.

101. The Mission reiterates the unavoidable need to regulate the sale of firearms and to ensure that the competent authorities effectively supervise the exercise of the right to use, possess and bear arms. In this connection, it is important to make further progress in complying with paragraph 33 of the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, which concerns the promotion of the reform of the Arms and Munitions Act.

102. To ensure the effectiveness of efforts to combat impunity with respect to violations and offences, the State institutions concerned must coordinate their actions not only in terms of investigating, prosecuting and punishing the culprits, but also in terms of providing minimum safety guarantees for judges, prosecutors, witnesses and other participants in such trials. The Mission hopes that, with the establishment of the Coordinating Authority for the Modernization of the Justice Sector, progress will be made towards the effective coordination of these institutions at the operational and/or territorial levels. In this connection, it is vitally important to adopt the necessary administrative and budgetary measures to ensure the effective implementation of the Act for the Protection of Persons Involved in the Conduct of Judicial Proceedings and Persons Linked to the Administration of Criminal Justice.

103. To avoid excessive delays in judicial proceedings, which foster a perception of impunity on the part of the population, the Mission believes it is necessary to promote administrative and legal initiatives to avoid lengthy appeals processes which are without merit, as in the case of applications for amparo with respect to judicial decisions, and to provide for appropriate sanctions against those who file appeals in a manner which distorts their purpose.

104. The Mission believes that, to correct the shortcomings identified with respect to the right of defence at trial, it is necessary to increase the number of public defenders and court interpreters.

105. In view of the disturbing increase in threats against individuals working for the promotion and protection of human rights, the Mission makes a special appeal to the authorities to guarantee full compliance with the commitment to take special measures to protect such persons, particularly in view of the forthcoming publication of the final report of the Commission to Clarify Past Human Rights Violations and Acts of Violence That Have Caused the Guatemalan Population to Suffer.

106. To ensure that the right of assembly of neighbourhood groups wishing to form committees or associations in the municipalities is no longer affected by obstacles which are generated, for the most part, by the complexity of the regulations in force and by widespread ignorance of their mechanisms and purposes (to promote, and not obstruct, the exercise of this right), it is advisable to clarify and

disseminate these regulations and to eliminate unnecessary requirements for the recognition of forms of association.

107. With respect to the State's obligation to create the conditions necessary for the exercise of political rights, the Mission urges the Government to adopt appropriate legal and administrative measures to ensure the efficient implementation of the Temporary Special Act on Personal Documentation.

108. In the interest of enhancing compliance with the commitment to promoting and perfecting norms and mechanisms for the protection of human rights, the Mission urges the Government to deposit with the Secretary-General of the United Nations its instrument of ratification of the first Optional Protocol to the International Covenant on Civil and Political Rights and, by means of a special declaration, to recognize the competence of the Committee against Torture and the Committee on the Elimination of Racial Discrimination to receive communications from individuals. These actions will enable persons within the jurisdiction of the State of Guatemala to submit communications to the Human Rights Committee, the Committee against Torture and the Committee on the Elimination of Racial Discrimination.

109. The Mission, which has observed with concern the successive postponements of the entry into force of the Code on Children and Youth, urges the relevant institutions and Guatemalan society to ensure that any amendments introduced prior to the Code's final entry into force are in conformity with the Convention on the Rights of the Child, to which Guatemala is a party. Likewise, it urges the institutions concerned to revive the debate on the adoption law.

110. In relation to the commitment to foster, in the international community, recognition of enforced or involuntary disappearances as crimes against humanity, the Mission considers that the time has come for the Government to complete the process of ratifying the Inter-American Convention on Forced Disappearance of Persons of 9 June 1994 by depositing the relevant instruments with the Organization of American States.

111. The strengthening of the State's capacity to meet its obligations with respect to human rights is inseparable from the mobilization of national resources for the institutions responsible for public safety and the administration of justice. This means that the justice sector and the Office of the Counsel for Human Rights must be given the resource base they need to pursue the process of reform and modernization. It is essential that the resource allocations in the preliminary draft budget for 1999 should reflect the priority to be given to efforts to ensure public safety and to combat impunity. It is also important that the State and the population should become aware of the need to provide a fiscal basis for the modernization and democratization of the State, so as to guarantee the viability of these processes.

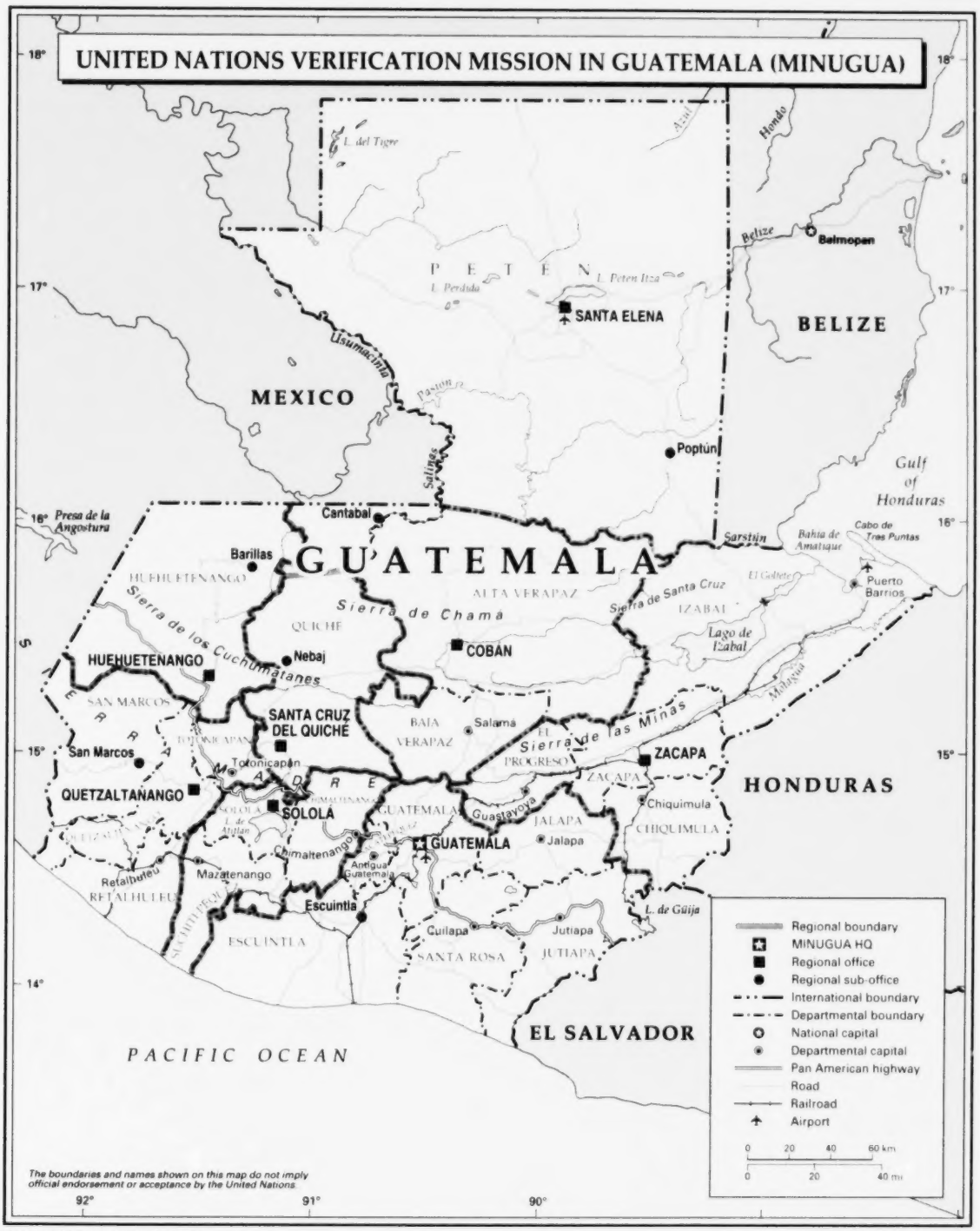
Appendix

Statistics on human rights violations during the period from 1 July 1997 to 31 March 1998

	Complaints admitted	*Violations alleged*	*Violations verified*[a]	*Violations confirmed*[a]
Right to life				
Extrajudicial executions or deaths in violation of legal guarantees	22	42	45	28
Attempted extrajudicial executions	2	5	46	42
Death threats	26	63	58	39
Total	**50**	**110**	**149**	**109**
Right to integrity and security of person				
Torture	7	10	12	7
Cruel, inhuman or degrading treatment	5	12	23	21
Ill-treatment	16	41	53	47
Excessive use of force	3	1 156	1 158	858
Other threats	16	35	34	21
Total	**47**	**1 254**	**1 280**	**954**
Right to individual liberty				
Arbitrary detention	7	46	60	34
Detention in violation of legal guarantees	9	28	47	41
Kidnapping	—	3	3	1
Hostage-taking	—	—	—	—
Enforced disappearance	4	6	3	2
Forcible, unjust or discriminatory recruitment	—	—	—	—
Total	**20**	**83**	**113**	**78**
Right to due process				
Right to be presumed innocent	6	7	4	3
Right to be judged by a competent, independent and impartial judge	2	9	—	—
Right to be tried within a reasonable time	5	18	6	6
Right to defence and to be assisted by a lawyer	1	6	6	6
Right to be assisted by an interpreter	—	2	3	3
Right not to be compelled to testify against oneself	—	2	1	1
Right of appeal	—	—	—	—
Right of habeas corpus	—	—	—	—
Right of access to the justice system	4	4	4	4
Obstruction of the work of the National Police, the Public Prosecutor's Office and the judiciary	10	19	327	21
Legal duty of the State to investigate and punish	60	121	406	392
Right to compensation	—	—	—	—
Legal guarantees for the victim	2	3	15	15
Total	**90**	**191**	**772**	**451**

	Complaints admitted	*Violations alleged*	*Violations verified**	*Violations confirmed**
Political rights				
Right to have access to public service	—	—	—	—
Right to be registered on the electoral roll	—	—	—	—
Right to vote	—	—	—	—
Right to hold political office	—	—	—	—
Total	—	—	—	—
Right to freedom of expression	**1**	**1**	—	—
Right to freedom of association and assembly				
Right to freedom of association	4	54	184	184
Right to organize	6	108	49	49
Freedom of assembly	1	21	—	—
Total	**11**	**183**	**233**	**233**
Right to freedom of movement and residence				
Deprivation of documents	—	—	—	—
Enforced population displacement	—	—	—	—
Freedom of movement	—	—	—	—
Total	—	**20**	**21**	**21**
Grand total	**219**	**1 842**	**2 568**	**1 846**

* Some cases opened in other periods are included in these figures. The calculations are based on the date the violation was verified.



Map No. 3839 Rev. 3 UNITED NATIONS
March 1997

Department of Public Information
Cartographic Section

UNITED NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/52/947
S/1998/481
8 June 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda items 36, 37 and 87
QUESTION OF PALESTINE
THE SITUATION IN THE MIDDLE EAST
REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE PALESTINIAN PEOPLE AND OTHER ARABS OF THE OCCUPIED TERRITORIES

SECURITY COUNCIL
Fifty-third year

Letter dated 8 June 1998 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General

Following our previous two letters to you dated 29 May (A/52/926-S/1998/444) and 14 May 1998 (A/52/899-S/1998/393), I wish to inform you that Israel, the occupying Power, began archaeological excavations in the area of Burj al-Laqlaq inside the Old City of occupied East Jerusalem. These excavations by the Israeli Antiquities Authority are taking place as part of preliminary activities to build an illegal new Jewish settlement in the heart of occupied Arab East Jerusalem.

The State-sponsored excavation work is being carried out following a failed attempt by the extremist Jewish settler group Ateret Cohanim on 25 May 1998 to establish the nucleus of a new settlement in that area. At a later stage, the Israeli Government decided to allow for the excavations to take place as a preliminary step towards building the settlement. Moreover, in tandem with these excavations, the illegal Israeli municipality of Jerusalem began deliberations today on a construction plan for that settlement. Such activities represent continuing attempts by the Israeli municipal and State authorities to judaize Jerusalem and to illegally change the status, demographic composition, and character of the city.

It is worth noting that these above-mentioned excavations are being undertaken in the vicinity of the destroyed Palestinian structure of the Burj al-Laqlaq Society, which was demolished by Israeli forces on 27 August 1996. In this regard, I would like to also refer to a letter we sent to you on 27 August 1996 (A/51/310-S/1996/699), following the illegal

destruction of the building of this charitable organization. I would also like to call your attention to the press statement issued by the President of the Security Council, in response to this demolition, calling upon Israel to refrain from actions that would threaten the peace process.

In addition to the above, another extremist Jewish settler group, Elad, today took over four housing units in the Silwan neighbourhood of Arab East Jerusalem. In overnight activity, the settler group took over those units, as well as a plot of land, instigating clashes with Palestinians in which one Palestinian official was injured.

The activities undertaken by the extremist settler gangs, the excavations and the attempts to build a new settlement in Burj al-Laqlaq, as well as the takeover of housing units in Silwan, all represent an escalation in hostile and provocative Israeli settlement activity in occupied Arab East Jerusalem. They constitute serious and blatant violations of the Fourth Geneva Convention of 1949, which is applicable to all the territories occupied by Israel since 1967, including Jerusalem. They also violate various relevant resolutions of the Security Council, the General Assembly and other organs of the United Nations that prohibit any attempts to alter the character, demographic composition and status of the Holy City of Jerusalem. In addition, the illegal actions clearly violate the agreements reached between the Government of Israel and the Palestine Liberation Organization and seriously threaten recent attempts to reactivate the peace process, which was derailed by illegal settlement activity at Jabal Abu Ghneim, to the south of occupied East Jerusalem.

We expect the international community to take a clear and firm position based on international law and in accordance with United Nations resolutions against all such Israeli violations and illegal practices. The Security Council, as the body responsible for the maintenance of international peace and security, should take the necessary actions in this regard.

I would be grateful if you would arrange to have the present letter distributed as a document of the fifty-second session of the General Assembly, under agenda items 36, 37 and 87, and of the Security Council.

(Signed) Dr. Nasser Al-Kidwa
Permanent Observer of Palestine
to the United Nations

UNITED NATIONS **A S**

General Assembly
Security Council

Distr.
GENERAL

A/52/948
S/1998/487
9 June 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda items 36, 37 and 87
QUESTION OF PALESTINE
THE SITUATION IN THE MIDDLE EAST
REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE PALESTINIAN PEOPLE AND OTHER ARABS OF THE OCCUPIED TERRITORIES

SECURITY COUNCIL
Fifty-third year

Letter dated 9 June 1998 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General

In follow-up to my letter to you dated yesterday, 8 June 1998 (A/52/947-S/1998/481), regarding the ongoing illegal Israeli actions in Jerusalem, I wish to inform you further that the Interior Ministry of Israel, the occupying Power, today approved the construction of 58 housing units for Jewish settlers in the area of the Mount of Olives in occupied East Jerusalem. The decision is yet another example of the pursuit, by the Government of Israel, of an intensified expansionist policy for the colonization and judaization of Arab Jerusalem, with the support of lunatic Jewish settler groups and the illegal municipality of Jerusalem.

Such actions demonstrate clearly the intransigence of the Israeli Government and its persistence in defying the will of the international community and in violating international law and United Nations resolutions. In this context, it is imperative for the international community to take measures in order to confront these Israeli policies and actions, to ensure respect for international law and to prevent further escalation of the situation in the whole region.

The Security Council, as the body responsible for the maintenance of international peace and security, should formally consider the situation with a view to taking the necessary actions in this regard.

I would be grateful if you would arrange to have the present letter distributed as a document of the fifty-second session of the General Assembly, under agenda items 36, 37 and 87, and of the Security Council.

(Signed) Dr. Nasser AL-KIDWA
Permanent Observer of Palestine
to the United Nations

UNITED NATIONS **A S**

General Assembly
Security Council

Distr.
GENERAL

A/52/949
S/1998/511
15 June 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda items 36, 37 and 87
QUESTION OF PALESTINE
THE SITUATION IN THE MIDDLE EAST
REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE PALESTINIAN PEOPLE AND OTHER ARABS OF THE OCCUPIED TERRITORIES

SECURITY COUNCIL
Fifty-third year

Letter dated 15 June 1998 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General

On 11 June 1998, the occupying Israeli army issued an order allowing for the establishment of the so-called civil guards in the Jewish settlements in the West Bank. This dangerous development represents yet another provocative and hostile act by the occupying Power. In addition to its blatant violation of international law, the Fourth Geneva Convention and relevant Security Council resolutions, this act could directly endanger the safety and well-being of the Palestinian civilians in the occupied Palestinian territory, including Jerusalem. It is obvious that, in practice, these "civil guards" would be an armed militia of extremist and fanatic settlers, serving as a private army or as another occupying army within the occupied territory.

In its resolution 904 (1994) of 18 March 1994, the Security Council, by consensus, called upon Israel, the occupying Power, to continue to take and implement measures, including, inter alia, confiscation of arms, with the aim of preventing illegal acts of violence by Israeli settlers. Clearly, the Israeli authorities are doing the opposite, and they are doing so at a time when the aggression, hostility and violence of the settlers are increasing against the Palestinian people. Further, on the same day, the Israeli army issued another order granting the illegal settlement "Ariel" the formal status of a city, implicitly indicating that it is not a part of the occupied territory anymore. This illegal action serves as yet another confirmation of Israel's expansionist and colonialist policy in the occupied Palestinian territory, including Jerusalem.

All of these illegal actions must be strongly condemned by the international community, and the Security Council in particular, as the body responsible for the maintenance of international peace and security, must ensure that the occupying Power reverses such actions and conform with international law and relevant Security Council and General Assembly resolutions on settlements.

I should be grateful if you would arrange to have the present letter distributed as a document of the fifty-second session of the General Assembly, under agenda items 36, 37 and 87, and of the Security Council.

(Signed) Nasser AL-KIDWA
Permanent Observer of Palestine
to the United Nations

UNITED
NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/52/950
S/1998/514
16 June 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda item 64
COMPREHENSIVE NUCLEAR-TEST-BAN TREATY

SECURITY COUNCIL
Fifty-third year

Letter dated 10 June 1998 from the Permanent Representative of Australia to the United Nations addressed to the Secretary-General

I have the honour to transmit to you the statement of the Australian Prime Minister dated 12 May 1998 and those of the Australian Minister for Foreign Affairs dated 14, 28, 29 and 30 May 1998 concerning the conduct of nuclear tests by India and Pakistan.

I should be grateful if you would have the present letter, together with its annex, issued as a document of the General Assembly, under item 64, and of the Security Council.

(Signed) Penny WENSLEY

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ANNEX

Statements made by the Prime Minister and the Minister for Foreign Affairs of Australia

Statement made on 12 May 1998 by the Prime Minister of Australia

INDIAN NUCLEAR TESTS

INDIA'S ACTION IN CONDUCTING THREE UNDERGROUND NUCLEAR TESTS IS AN ILL-JUDGED STEP WHICH COULD HAVE MOST DAMAGING CONSEQUENCES FOR SECURITY IN SOUTH ASIA AND GLOBALLY.

AUSTRALIA HAS A DIRECT SECURITY INTEREST IN PREVENTING THE PROLIFERATION OF NUCLEAR WEAPONS. THE INDIAN TESTS ARE IN FLAGRANT DEFIANCE OF THE INTERNATIONAL COMMUNITY'S STRONG SUPPORT FOR NUCLEAR NON-PROLIFERATION AND OPPOSITION TO NUCLEAR TESTING. TO DATE, 186 COUNTRIES ARE PARTY TO THE NUCLEAR NON-PROLIFERATION TREATY AND 149 COUNTRIES HAVE SIGNED THE COMPREHENSIVE TEST BAN TREATY.

INDIA'S NEIGHBOURS WILL NATURALLY BE CONCERNED ABOUT THE TESTS BUT A NUCLEAR ARMS RACE IS NOT THE WAY TO ADDRESS THE ISSUE OF MAINTAINING STABILITY IN SOUTH ASIA. THE GOVERNMENT URGES THEM NOT TO RESPOND IN WAYS WHICH WOULD FURTHER DESTABILISE SECURITY IN THE REGION.

THE FOREIGN MINISTER HAS CALLED IN THE INDIAN HIGH COMMISSIONER TODAY TO CONVEY OUR CONDEMNATION OF THE TESTS IN THE STRONGEST POSSIBLE TERMS. THE SAME MESSAGE WILL BE REGISTERED BY OUR HIGH COMMISSION IN NEW DELHI.

THE GOVERNMENT IS RECALLING OUR HIGH COMMISSIONER FROM NEW DELHI FOR CONSULTATIONS. FURTHER ACTION WILL BE DECIDED IN LIGHT OF THOSE CONSULTATIONS AND DISCUSSIONS WITH OTHER COUNTRIES WHICH SHARE OUR CONCERN.

Ministerial media release dated 14 May 1998

AUSTRALIAN RESPONSE TO INDIAN NUCLEAR TESTS

THE GOVERNMENT HAS NOW DECIDED UPON FURTHER AUSTRALIAN ACTIONS IN RESPONSE TO THE OUTRAGEOUS ACTS PERPETRATED BY INDIA IN CONDUCTING NO LESS THAN FIVE NUCLEAR TESTS THIS WEEK. THIS FOLLOWED CONSULTATIONS TODAY WITH AUSTRALIA'S HIGH COMMISSIONER TO INDIA, MR ROB LAURIE, AND REFLECTS THE GOVERNMENT'S CONDEMNATION OF THE WILFUL DISREGARD FOR INTERNATIONAL OPINION IN PROCEEDING WITH A SECOND ROUND OF NUCLEAR TESTS YESTERDAY.

THE GOVERNMENT CONSIDERS THAT INDIA'S ACTIONS COULD HAVE THE MOST DAMAGING CONSEQUENCES FOR SECURITY IN SOUTH ASIA AND GLOBALLY. IT RISKS A REGIONAL ARMS RACE AND IS IN FLAGRANT DEFIANCE OF THE INTERNATIONAL COMMUNITY'S STRONG SUPPORT FOR NUCLEAR NON-PROLIFERATION, AS EVIDENCED BY 186 COUNTRIES SIGNING THE NUCLEAR NON-PROLIFERATION TREATY AND 149 COUNTRIES SIGNING THE COMPREHENSIVE (NUCLEAR) TEST BAN TREATY (CTBT). INDIA MUST IMMEDIATELY SIGN THE CTBT, JOIN THE INTERNATIONAL NUCLEAR NON-PROLIFERATION REGIME AND FORSWEAR FOREVER THE USE OF NUCLEAR WEAPONS.

THE INTERNATIONAL COMMUNITY CANNOT LET INDIA'S ACTIONS PASS WITHOUT A STRONG AND SUBSTANTIVE RESPONSE.

AUSTRALIA HAS AND WILL CONTINUE WITH VIGOUR TO USE REGIONAL AND INTERNATIONAL FORUMS TO MAKE CLEAR AUSTRALIA'S OPPOSITION TO INDIAN NUCLEAR TESTING AND HAS MADE DIRECT REPRESENTATIONS HERE IN AUSTRALIA AND TO THE INDIAN GOVERNMENT IN NEW DELHI TO LEAVE INDIA IN NO DOUBT ABOUT THE STRENGTH OF OUR CONDEMNATION OF ITS DECISION TO CONDUCT NUCLEAR TESTS. IN ADDITION, I RECALLED AUSTRALIA'S HIGH COMMISSIONER TO INDIA FOR CONSULTATIONS.

BUT IN LIGHT OF THE ILL-JUDGED ACTIONS OF INDIA THE GOVERNMENT HAS CONCLUDED THAT FURTHER ACTION IS REQUIRED, BOTH TO REGISTER OUR CONCERN TO THE INDIAN GOVERNMENT AND TO SEND A MESSAGE TO OTHER NATIONS THAT MIGHT BE CONSIDERING THE TESTING OR DEVELOPMENT OF NUCLEAR WEAPONS ABOUT THE CONSEQUENCES OF ANY SUCH ACTION.

IN THIS REGARD THE GOVERNMENT HAS DECIDED TO IMPLEMENT THE FOLLOWING ACTIONS, EFFECTIVE IMMEDIATELY:

SUSPENSION OF BILATERAL DEFENCE RELATIONS WITH INDIA, INCLUDING THE WITHDRAWAL OF AUSTRALIA'S DEFENCE ADVISER STATIONED IN NEW DELHI, THE CANCELLATION OF SHIP AND AIRCRAFT VISITS, OFFICER EXCHANGES AND OTHER DEFENCE-RELATED VISITS. AUSTRALIAN DEFENCE FORCE PERSONNEL CURRENTLY TRAINING IN INDIA WILL BE WITHDRAWN . AUSTRALIA WILL REQUEST THE IMMEDIATE DEPARTURE OF THREE INDIAN DEFENCE PERSONNEL CURRENTLY AT DEFENCE COLLEGES IN AUSTRALIA;

. SUSPENSION OF NON-HUMANITARIAN AID;

. SUSPENSION OF MINISTERIAL AND SENIOR OFFICIAL VISITS.

IN ADDITION, THE GOVERNMENT WILL TAKE EVERY APPROPRIATE OPPORTUNITY TO REGISTER AUSTRALIA'S STRONG OPPOSITION TO INDIA'S NUCLEAR TESTING PROGRAM AND WILL CONTINUE TO ENCOURAGE AND SUPPORT THE EFFORTS OF OTHERS TO PUT AN END TO ALL NUCLEAR WEAPONS TESTING.

WE CONTINUE TO URGE INDIA'S NEIGHBOURS TO EXERCISE THE UTMOST RESTRAINT IN THE FACE OF THIS PROVOCATION.

Statement made on 28 May 1998 by the Minister for Foreign Affairs of Australia

PAKISTAN NUCLEAR TESTS

I STRONGLY CONDEMN THE NUCLEAR TESTS CONDUCTED BY PAKISTAN TODAY. I WILL BE ANNOUNCING TOMORROW THE MEASURES AUSTRALIA WILL TAKE IN RESPONSE TO PAKISTAN'S NUCLEAR TESTS.

AS WITH THE TESTS CONDUCTED BY INDIA, PAKISTAN'S ACTIONS HAVE SERIOUS IMPLICATIONS FOR GLOBAL AND REGIONAL SECURITY AND FLY IN THE FACE OF THE INTERNATIONAL NORM AGAINST NUCLEAR WEAPONS TESTING.

PAKISTAN'S DECISION TO TEST HAS BEEN MADE IN SPITE OF THE STRONG INTERNATIONAL CONDEMNATION OF INDIA'S TESTS AND DIRECT PLEAS TO PAKISTAN BY AUSTRALIA AND OTHER MEMBERS OF THE INTERNATIONAL COMMUNITY TO EXERCISE RESTRAINT AND NOT TO EMULATE INDIA'S REGRETTABLE EXAMPLE.

A NUCLEAR ARMS RACE IN SOUTH ASIA WILL EXACERBATE RATHER THAN SOLVE REGIONAL SECURITY TENSIONS. PAKISTAN AND INDIA SHOULD BOTH SIGN THE COMPREHENSIVE NUCLEAR TEST BAN TREATY IMMEDIATELY, AND SHOULD THROW THEIR WEIGHT BEHIND INTERNATIONAL EFFORTS TO ACHIEVE A FISSILE MATERIAL CUT-OFF TREATY.

I WILL CONTACT THE PAKISTANI HIGH COMMISSIONER TOMORROW TO CONVEY TO HIM AUSTRALIA'S DEEP DISAPPOINTMENT AND REGRET AND TO URGE HIS GOVERNMENT TO DESIST FROM ANY FURTHER TESTING. THE SAME MESSAGE WILL BE REGISTERED BY OUR HIGH COMMISSION IN ISLAMABAD.

PAKISTAN'S ACTIONS WILL IN NO WAY WEAKEN AUSTRALIA'S DETERMINATION, SHARED BY THE VAST MAJORITY OF GOVERNMENTS AND PEOPLES THROUGHOUT THE WORLD, TO SEE AN END TO THE ERA OF NUCLEAR WEAPONS. WE WILL CONTINUE VIGOROUSLY TO PURSUE THIS OBJECTIVE, AND TO URGE PAKISTAN AND INDIA TO JOIN THE INTERNATIONAL NUCLEAR NON-PROLIFERATION REGIME.

Statement made on 29 May 1998 by the Minister for Foreign Affairs of Australia

PAKISTAN NUCLEAR TESTS

FOLLOWING PAKISTAN'S ILL-ADVISED DECISION TO CONDUCT NUCLEAR TESTS OVERNIGHT, I AM TODAY ANNOUNCING A SERIES OF MEASURES THE AUSTRALIAN GOVERNMENT WILL APPLY AGAINST PAKISTAN.

THE FOLLOWING MEASURES - SIMILAR TO THOSE IMPOSED ON INDIA - WILL BE IMPLEMENTED IMMEDIATELY:

. RECALL FOR CONSULTATIONS OF OUR HIGH COMMISSIONER FROM ISLAMABAD AS SOON AS POSSIBLE;

. SUSPENSION OF BILATERAL DEFENCE RELATIONS WITH PAKISTAN, INCLUDING THE RECALL OF AUSTRALIA'S DEFENCE ADVISER STATIONED IN ISLAMABAD AND THE CANCELLATION OF OFFICER EXCHANGES AND OTHER DEFENCE-RELATED VISITS. AUSTRALIAN DEFENCE FORCE PERSONNEL CURRENTLY TRAINING IN PAKISTAN WILL BE WITHDRAWN. AUSTRALIA WILL CANCEL ALL PLANNED VISITS TO AUSTRALIA BY PAKISTANI DEFENCE PERSONNEL;

. EXCLUSION OF NON-HUMANITARIAN AID. CONSISTENT WITH MY DECISION TO PRESERVE THE HUMANITARIAN COMPONENT OF THE ASSISTANCE PROGRAM TO INDIA, THE PROGRAM TO PAKISTAN WILL CONTINUE. HOWEVER, I HAVE CANCELLED MY DECISION TO DOUBLE AID TO PAKISTAN NEXT YEAR. THIS WAS CONTINGENT UPON PAKISTAN REFRAINING FROM TESTING;

- SUSPENSION OF MINISTERIAL AND SENIOR OFFICIAL VISITS;

- WITH MY SUPPORT, THE PRESIDING OFFICERS OF PARLIAMENT HAVE DECIDED IT WOULD BE INAPPROPRIATE IN THE PRESENT CIRCUMSTANCES TO CONTINUE WITH THE VISIT OF THE PAKISTAN PARLIAMENTARY DELEGATION WHICH IS CURRENTLY IN AUSTRALIA. THAT VIEW HAS BEEN CONVEYED TO THE DELEGATION;

- IN ADDITION TO THESE BILATERAL STEPS, AUSTRALIA HAS TAKEN SEVERAL IMMEDIATE STEPS TO RESPOND IN MULTILATERAL FORA TO PAKISTAN'S TESTS, NAMELY (1) CALLING FOR AN EARLY "SPECIAL" SESSION OF THE CONFERENCE ON DISARMAMENT TO DISCUSS THE MATTER; (2) TAKING A LEAD IN HAVING THE CHAIRMAN OF THE CTBTO PREPARATORY COMMISSION ISSUE A STATEMENT CONDEMNING THE TESTS ON BEHALF OF PREPCOM MEMBERS; AND (3) SEEKING A SPECIAL ITEM ON NUCLEAR TESTING AT THE JUNE BOARD OF GOVERNORS MEETING OF THE IAEA.

I SPOKE THIS MORNING WITH THE PAKISTAN HIGH COMMISSIONER TO CONVEY TO HIM AUSTRALIA'S STRONG CONDEMNATION OF HIS COUNTRY'S ACTION. PAKISTAN'S ACTION IS A FLAGRANT DEFIANCE OF INTERNATIONAL NON-PROLIFERATION NORMS AND HAS SERIOUS IMPLICATIONS FOR GLOBAL AND REGIONAL SECURITY. IT IS SAD AND DEEPLY DISAPPOINTING THAT PAKISTAN HAS TURNED ITS BACK ON THE DIRECT PLEAS OF AUSTRALIA AND OTHERS TO EXERCISE RESTRAINT. INSTEAD PAKISTAN HAS DECIDED TO JOIN INDIA IN ISOLATION FROM THE REST OF THE INTERNATIONAL COMMUNITY.

I CALL AGAIN ON BOTH PAKISTAN AND INDIA IMMEDIATELY TO SIGN AND RATIFY THE COMPREHENSIVE NUCLEAR TEST BAN TREATY WITHOUT CONDITION, AND ACCEDE TO THE NUCLEAR NON-PROLIFERATION TREATY.

THE SAME MESSAGE WILL BE REGISTERED BY OUR HIGH COMMISSION IN ISLAMABAD.

I REITERATE THAT IT IS DEEPLY DISAPPOINTING THAT, IN THE FACE OF OUR DIRECT REPRESENTATIONS, PAKISTAN HAS CHOSEN A COURSE OF ACTION WHICH CASTS SUCH A MAJOR SHADOW ON WHAT HAD OTHERWISE BEEN A POSITIVE RELATIONSHIP.

Statement made on 30 May 1998 by the Minister for Foreign Affairs of Australia

PAKISTAN NUCLEAR TESTS

I STRONGLY CONDEMN THE CONDUCT OF FURTHER NUCLEAR TESTS BY PAKISTAN. I AM PROFOUNDLY DISAPPOINTED THAT PAKISTAN HAS SEEN FIT TO ADD TO THE FOLLY OF ITS TESTS ON 28 MAY. IT IS DEEPLY REGRETTABLE THAT THE PAKISTANI GOVERNMENT HAS SHOWN ABSOLUTE DISREGARD FOR THE MANY, DIRECT APPEALS TO EXERCISE RESTRAINT, AND HAS WILFULLY TURNED ITS BACK ON THE SINCERE EFFORTS OF THE INTERNATIONAL COMMUNITY TO ENCOURAGE REASON TO PREVAIL. THIS ACTION DEFIES THE HOPES OF PEOPLE EVERYWHERE FOR A WORLD FREE OF NUCLEAR TESTING.

I ANNOUNCED ON 29 MAY THE MEASURES AUSTRALIA HAS TAKEN IN RESPONSE TO THE FIRST SET OF PAKISTANI NUCLEAR TESTS. THE SECOND SET ONLY STRENGTHENS THE GOVERNMENT'S DETERMINATION THAT ANY NUCLEAR TESTING COUNTRY SHOULD BEAR THE FULL WEIGHT OF THE INTENSE INTERNATIONAL OPPROBRIUM SUCH ACTS DESERVE.

A NUCLEAR ARMS RACE IN SOUTH ASIA WOULD NOT SIMPLY THREATEN THE SECURITY OF THE IMMEDIATE REGION. IT WOULD ALSO HAVE SERIOUS IMPLICATIONS FOR GLOBAL SECURITY ARRANGEMENTS. AUSTRALIA STRONGLY URGES PAKISTAN AND INDIA TO CEASE THEIR DANGEROUS ACTS OF BRINKMANSHIP.

I CALL ON BOTH COUNTRIES TO RENOUNCE NUCLEAR TESTING AND IMMEDIATELY SIGN AND RATIFY THE COMPREHENSIVE NUCLEAR TEST BAN TREATY, TO JOIN IMMEDIATELY THE INTERNATIONAL NUCLEAR NON-PROLIFERATION REGIME, AND TO PARTICIPATE IN THE NEGOTIATION OF A "CUT-OFF" TREATY BANNING THE PRODUCTION OF FISSILE MATERIAL FOR EXPLOSIVE PURPOSES.

THE AUSTRALIAN GEOLOGICAL SURVEY ORGANISATION DETECTED AN UNDERGROUND NUCLEAR EXPLOSION THAT TOOK PLACE AT 16:55 (AUSTRALIAN EASTERN STANDARD TIME) ON 30 MAY IN SOUTHWESTERN PAKISTAN. PRELIMINARY ESTIMATES INDICATE THAT THE YIELD OF THE EXPLOSION WAS LESS THAN 10 KILOTONNES OF TNT.

UNITED NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/52/951
S/1998/515
16 June 1998

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Agenda items 10, 81 and 111
REPORT OF THE SECRETARY-GENERAL
ON THE WORK OF THE ORGANIZATION
MAINTENANCE OF INTERNATIONAL SECURITY
RIGHT OF PEOPLES TO SELF-DETERMINATION

SECURITY COUNCIL
Fifty-third year

Letter dated 11 June 1998 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General

I am directed to refer to your telephonic conversation of yesterday with the Prime Minister, and to your letter of 10 June 1998.

I would like to inform you that Pakistan has today officially proposed to the Government of India to resume the Pakistan-India dialogue.

A proposal to this effect was conveyed to the Indian High Commissioner in Islamabad. We have also proposed that the Foreign Secretaries of our two countries give special attention and priority to issues of peace and security and Jammu and Kashmir. We have also indicated to India our readiness to arrive at mutually agreed measures for the avoidance of conflict, nuclear and conventional restraint and stabilization.

We trust that these proposals, which conform to Prime Minister Nawaz Sharif's earnest desire to pursue a substantive and result-oriented dialogue with India, will be reciprocated in full.

The Government of Pakistan has also today announced a unilateral moratorium on nuclear testing. We have expressed our readiness to formalize this arrangement, in the first instance, at the regional level, as an important confidence-building measure with India.

Copies of official statements issued by the Government of Pakistan, in this regard, are enclosed.

We deeply appreciate your efforts at encouraging a substantive and serious peace process between Pakistan and India, which would address all issues, including the core issue of Jammu and Kashmir, in a just and equitable manner.

We look forward to your Personal Envoy's visit to Pakistan next week.

I should be grateful if the contents of the present letter were brought to the attention of the Security Council and the General Assembly, and circulated as documents of those organs.

(Signed) Ahmad KAMAL
Ambassador
Permanent Representative

ANNEX I

Press statement issued on 11 June 1998 by the Government of Pakistan

On 30 May 1998, the Government of Pakistan had announced that the current series of nuclear tests had been completed. The tests that were conducted on 28 and 30 May 1998 were a natural response, to restore the strategic balance that had been altered by India's nuclear weaponization and subsequent provocative actions and statements against Pakistan.

The Government of Pakistan has repeatedly stated that it does not wish to enter into an arms race with India. Pakistan is making active efforts to ensure avoidance of conflict and to promote nuclear and conventional restraint and stabilization measures between Pakistan and India.

It is in this context that the Government of Pakistan has decided to announce a unilateral moratorium on nuclear testing. We are ready to engage constructively with India and other members of the international community to formalize this arrangement. In the first instance, we are ready to arrive at a no-nuclear-test agreement with India, as an important confidence-building measure at the regional level.

The Government of Pakistan expresses the hope that India will reciprocate and contribute towards creating a conducive regional environment by taking further effective steps to overcome the security crisis and promote durable peace and stability in South Asia.

ANNEX II

Press statement issued on 11 June 1998 by the Government of Pakistan

Pakistan's desire to engage constructively in a substantive and result-oriented dialogue with India has repeatedly been affirmed by the Prime Minister.

Accordingly, the Foreign Secretary, today, officially conveyed to the Indian High Commissioner Pakistan's proposal for resumption of Pakistan-India dialogue on the basis of the agreement reached on 23 June 1997 between the two sides.

Pakistan has proposed that, in view of the current situation, the two sides should address, on a priority basis, the issues of peace and security and Jammu and Kashmir in the resumed talks.

Pakistan has also proposed that, under the item pertaining to peace and security, special and urgent attention may be given to arriving at mutually agreed measures for the avoidance of conflict as well as promotion of nuclear and conventional restraint and stabilization measures.

Pakistan believes that simultaneously with the bilateral dialogue the international community will remain engaged with the comprehensive political process of stabilization of nuclearized South Asia and finding of a just settlement of the Jammu and Kashmir dispute, as promised by the Foreign Ministers of the five permanent members of the Security Council in their joint communiqué issued at Geneva on 4 June 1998. The Security Council has also mandated the Secretary-General to remain engaged in these efforts. In a letter addressed to the Prime Minister on 10 June, the Secretary-General has offered to encourage and facilitate this process. Islamabad now awaits the visit to Pakistan of the Secretary-General's Personal Envoy.

UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/52/952
16 June 1998

ORIGINAL: ENGLISH

Fifty-second session
Agenda item 37

THE SITUATION IN THE MIDDLE EAST

Letter dated 15 June 1998 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

The Government of Israel is presently seeking to complete a new set of understandings with the Palestinian Authority, through the assistance of the United States of America, with the aim of putting the peace process back on track. Israel is hopeful that these understandings will provide a framework for achieving Palestinian compliance with commitments made at the time of the 1997 Hebron Protocol, which have not been kept to this day.

Israel's insistence on Palestinian compliance has chiefly focused on the area of security, for understandable reasons. Since the signing of the Oslo Agreements hundreds of Israelis have died from brutal terrorist attacks emanating from territory under the control of the Palestinian Authority. On 16 April 1998, the head of Israeli military intelligence, Major General Moshe Ya'alon, disclosed to the Hebrew daily Ma'ariv:

> "Sadly, I cannot say that at any point in time since it entered the territory, in May 1994, that the Palestinian Authority acted decisively and in a clear-cut way against the terrorist operational capability of Hamas, as well as of the Islamic Jihad and the Popular Front for the Liberation of Palestine."

Terrorism does not occur in a vacuum; it is directly affected by what the Palestinian national leadership is stating on television, by what is being taught throughout its schools and by what is being preached in its mosques. Restoring security requires not only constant action by the Palestinian security services; it also requires creating an environment free from incitement to violence.

Unfortunately, in the past six weeks, the Palestinian Authority has escalated its widespread incitement to violence in all of its official media.

The Chairman of the Palestine Liberation Organization (PLO), Mr. Yasser Arafat, personally participated in this campaign, which included repeated televised scenes of intifada violence. This campaign recently culminated in massive demonstrations, organized by the Palestinian Authority, that were intended to commemorate the fiftieth anniversary of what the PLO calls "al-Nakba", which is Arabic for "the catastrophe", referring to the creation of the State of Israel.

This is not the first time official Palestinian media have been used to incite violence against Israel. For example, on 13 February 1998, Palestinian television presented a programme for children, called "The Children's Club", in which pre-school Palestinians are taught to exalt suicide warriors. A young girl recites that when she enters Jerusalem, she "turns into a suicide warrior in battle-dress." She is applauded by her schoolmates and by her teacher, who cries out "bravo". Real peace requires that Governments educate for peace, rather then legitimizing hatred and violence.

Mr. Arafat himself appeared on Palestinian television on 19 January 1998, specifically praising Yahya Ayyash, the mastermind of the Hamas suicide bombings that killed hundreds of innocent Israelis in the heart of Israeli cities. Arafat describes him as "the example, the model and the goal" of the Palestinians. He moreover states that "our goal is to follow their path". Chairman Arafat goes on to place Ayyash in a pantheon of past Palestinian heroes. This is hardly a way to make peace by any international standard.

Given this sort of rhetoric it is not surprising that Chairman Arafat's security forces have failed to crack down specifically on the Hamas military capability - from illegal firearms to entire bomb factories. Hamas military operatives, even those involved in bomb attacks, have not been kept imprisoned. As General Ya'alon has noted:

> "Muhammad Def, who is responsible for the February-March 1996 attacks, is running free in the Gaza Strip ... Hamas personnel still have in their possession weapons and explosive materials and they are not being dealt with."

The most critical figure in the Palestinian security services, who has responsibility for combating Hamas and the Islamic Jihad, is Colonel Jabril Rajoub, head of the Palestinian Authority's preventive security agency in the West Bank. Rajoub told Al-Jazira television on 27 May 1998 that from his standpoint Hamas had a green light for resuming attacks on Israel:

> "We view Hamas as part of the national and Islamic liberation movement ... Outside of the 3 per cent [of the West Bank under complete Palestinian control, known as area A] they can do as they wish ... They can go to Jordan to carry out armed operations and they can also carry out such operations from Syria ... At the top of my list of priorities is the [Israeli] occupation and not Hamas ... We are not interested in arrests."

Clearly, according to Colonel Rajoub, the Palestinian Authority has no responsibility for preventing attacks on Israel from area B - the area of full Palestinian civilian control and shared Israeli-Palestinian security control. Rajoub repeated this point on 13 June 1998 to Radio Algiers:

"First of all, we have never prevented any Palestinian from carrying out the struggle against Israel ... During the past four years, we have never prevented anyone from fighting in the territories which are not under our control ... 97 per cent of the West Bank is still under occupation. I think that they can carry out resistance from there. We have never prevented anyone nor shall we prevent anyone from doing so ..."

These distinctions are critical since the process of further redeployment, being discussed at present, involves converting large tracts of the West Bank from area C (full Israeli security control) to area B status, which, according to Rajoub, can be used for attacks on Israel.

This is simply unacceptable. For the people of Israel, these quotations raise hard questions. Is it the intention of Mr. Arafat's PLO leadership to continue to wage armed struggle against Israel, as long as this war is carried out by proxy (i.e., Hamas)? Is an entirely new generation of children already being trained to perpetuate this conflict by being taught to become suicide bombers? On 18 April 1998, Chairman Arafat appeared on Egyptian Orbit TV and compared the Oslo Agreements to the Khudaibiya agreement, a temporary truce that lasted only two years between the Prophet Mohammed and the Arabian tribe of Koreish.

Arafat called Oslo, in the same interview, an "inferior peace", and then stated that the lessons of Khudaibiya and those of Salah-a-Din must be learned today. He preceded this by making reference to the decisions of the 1974 Palestinian National Council meeting in Cairo, which adopted a 10-point programme calling for the creation of a Palestinian National Authority by the PLO on any land ceded by Israel. Subsequently, the PLO plan proposed the overthrow of the Hashemite Kingdom of Jordan, and finally the mobilization of a general Arab State assault on Israel. References to Khudaibiya and the "phased plan" only reinforce Israeli suspicions about Palestinian intentions.

For Israel, the peace process is not a temporary truce, but an irreversible commitment to reach a permanent reconciliation with the Palestinian people and the Arab world. Israel is determined to make this peace process work; it is frustrated with the difficulties it encounters in nailing down clear commitments from the Palestinian Authority to achieve a secure peace. No nation can pursue peace and simply ignore this sort of incitement. No nation can make unilateral concessions that leave its people more insecure. If the Palestinian commitment to comply with the Oslo Agreements is established in both word and deed, then the peace process can swiftly move forward. Israel is hopeful that security can be restored and incitement terminated, so that both Israelis and Palestinians can reach the peace that they both so deserve and need.

I should be grateful if you would have the text of the present letter circulated as a document of the fifty-second session of the General Assembly under agenda item 37.

(Signed) Ambassador Dore GOLD
Permanent Representative of
Israel to the United Nations

UNITED NATIONS **A**

General Assembly

Distr.
GENERAL

A/52/953
16 June 1998
ENGLISH
ORIGINAL: ARABIC

Fifty-second session
Agenda item 36

QUESTION OF PALESTINE

Letter dated 16 June 1998 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the General Assembly

In my capacity as Chairman of the Arab Group for the month of June 1998 I have the honour to request, on behalf of the States members of the League of Arab States, a resumption of the fifty-second session of the General Assembly some time next week, preferably on Thursday, 24 June 1998, to consider agenda item 36 entitled "Question of Palestine". I should be grateful if you would have this letter circulated as a document of the General Assembly.

(Signed) Mubarak Hussein RAHMTALLA
Ambassador
Deputy Permanent Representative of the
Permanent Mission of the Republic of
the Sudan to the United Nations
Chairman of the Arab Group

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